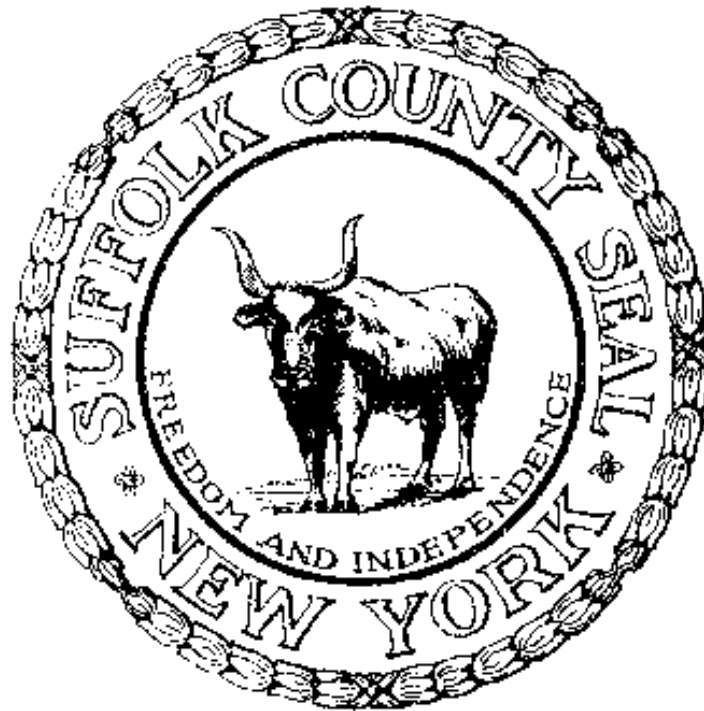


Suffolk County State Legislative Agenda 2004



STEVE LEVY
Suffolk County Executive

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE STEVE LEVY SUFFOLK COUNTY EXECUTIVE

April 2, 2004

Dear County Delegation:

I am pleased to present the updated 2004 Suffolk County State Legislative Agenda. The Agenda is a compilation of our County's priorities, including a detailed fiscal impact analysis and overview of the Governor's 2004-2005 Executive Budget and an extensive list of the County's State legislative proposals. It is critical that we work cooperatively to urge the Governor to restore all budget cuts included in the State Executive Budget that will affect Suffolk County.

As a former County Legislator, I served alongside many of you, committed to providing Suffolk residents with the quality of life they deserve. Now I am consumed with giving our residents a County government they can be proud of--an honest, ethical, economically viable and most importantly, a fiscally sound government. I cannot do this without your help.

As you know, I recently announced that Suffolk County is facing a \$238 million shortfall, the largest budget shortfall in the County's history. The shortfall is primarily due to the skyrocketing costs of un-funded State mandates, such as the Medicaid Program, and exacerbated by an \$87.5 million increase coming due from the State Comptroller's Office for the County contribution to the municipal employees pension fund. Add to this the soaring costs of Police Arbitration Awards, \$12 million in State Highway Patrol expenditures, rising health insurance costs and the prognosis for the immediate future is a grim one. The \$238 million shortfall is now four times the size of the entire general fund property tax levy, and that calculated shortfall does not include the impact of the 2004-2005 Executive Budget. The financial consequences to Suffolk County will be severe if this situation is not addressed with the State Delegation in this budget cycle.

While major relief is needed from New York State in the form of Medicaid and pension reform, I would not ask the State for assistance without having first taken pro active measures to reduce costs within my control. As you know, I have recently introduced a package of cost containment measures for 2004 and 2005. They include reducing salaries and equipment purchases, debt refunding, reductions in appropriations, and the abolition of budgeted positions. I hope that you will work with me to continue to reduce all costs that are within our County's control.

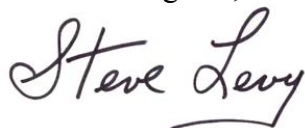
The 2004 State Legislative Agenda is comprised of three components:

- First and foremost, a section entitled, “State Steps To Keep Suffolk Out of the Red.” This section outlines my top state priority requests that will provide structural assistance with Suffolk’s budget shortfall for the 2004-2005 Fiscal Year, including Pension Reform, Medicaid Relief, Mandatory Arbitration legislation and the expansion of the Judicial Facilities Agency.
- The second component is a fiscal impact analysis, summary and overview of the Governor’s 2004-2005 Executive Budget.
- The last component contains the County’s State legislative requests from our County Departments with a fiscal impact analysis index, a summary and a detailed narrative of each proposal with justification for the proposal, background and statistical information, fiscal impact and legislative history.

Suffolk County taxpayers can no longer afford the escalating costs of Medicaid and other unfunded state mandates while sustaining cuts in the Governor’s 2004-2005 Executive State Budget without large tax increases and service cuts. We must work together to preserve the solvency of Suffolk County government by providing a Comprehensive Shared Responsibilities Solution to long-term relief from the burden that has been placed on local taxpayers.

Thank you for your continued leadership and friendship. I look forward to working with you.

With kind regards,

A handwritten signature in cursive script that reads "Steve Levy". The signature is written in black ink and has a fluid, personal style.

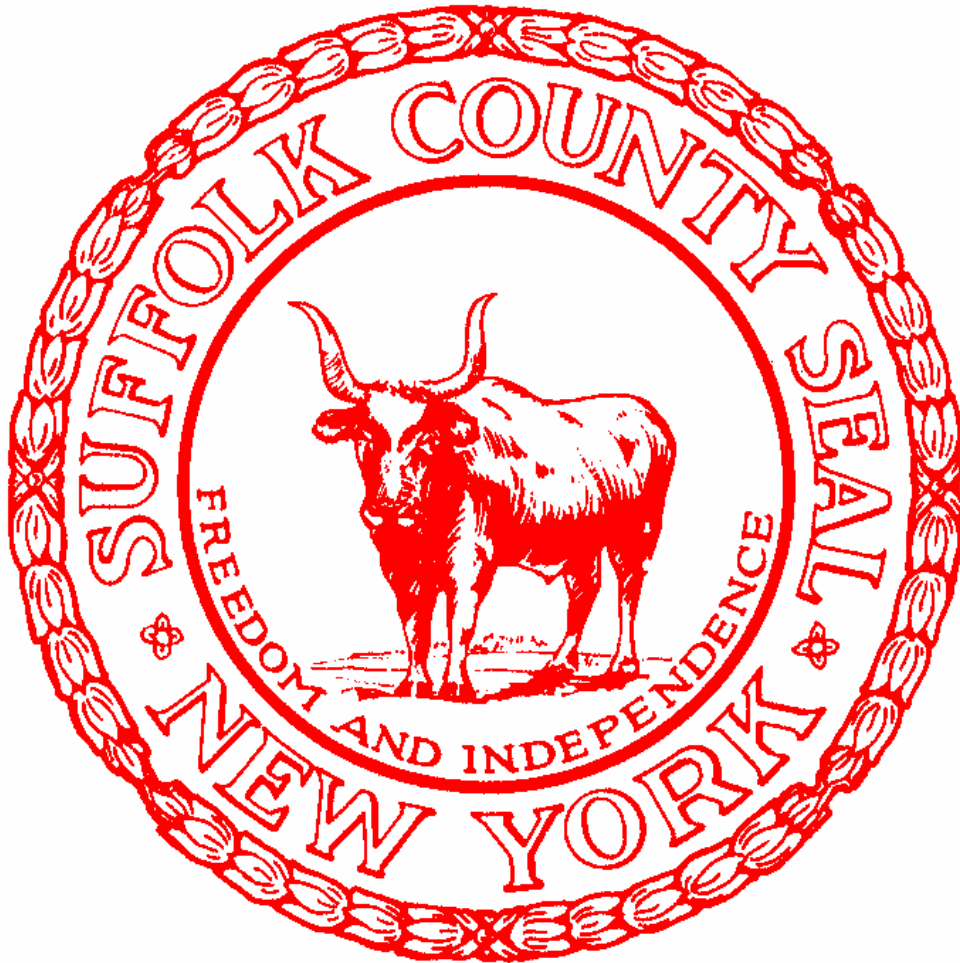
STEVE LEVY
Suffolk County Executive

2004 STATE LEGISLATIVE AGENDA

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Suffolk County State Legislative Agenda 2004



*State Steps to Keep Suffolk County
“Out of the Red”*

STEVE LEVY
Suffolk County Executive

State Steps To Keep Suffolk “Out Of The Red”

Structural Budget Shortfall Overview

Suffolk County is facing a \$238 million shortfall, the largest budget shortfall in the County’s history. The shortfall is primarily due to the skyrocketing costs of un-funded State mandates, such as the Medicaid Program and exacerbated by an \$87.5 million increase coming due from the State Comptroller’s Office for the County contribution to the municipal employees pension fund. Add to this the soaring costs of Police Arbitration Awards, \$12 million in State Highway Patrol expenditures and the implementation of the \$4 million Living Wage, and the prognosis of the immediate future is a grim one.

The \$238 million shortfall is now four times the size of the entire general fund property tax levy, and that calculated shortfall does not include the impact of the 2004-2005 Executive Budget. The large budgetary items that have contributed to this shortfall are (*See attached pie chart, “Suffolk County Projected 2005 Operating Budget Shortfall—All Funds-\$238 Million.”*):

- \$85.7 million increase in pension obligations,
- \$32.9 million increase in Medicaid costs,
- \$27.2 million for PBA/SOA/Detective arbitration award

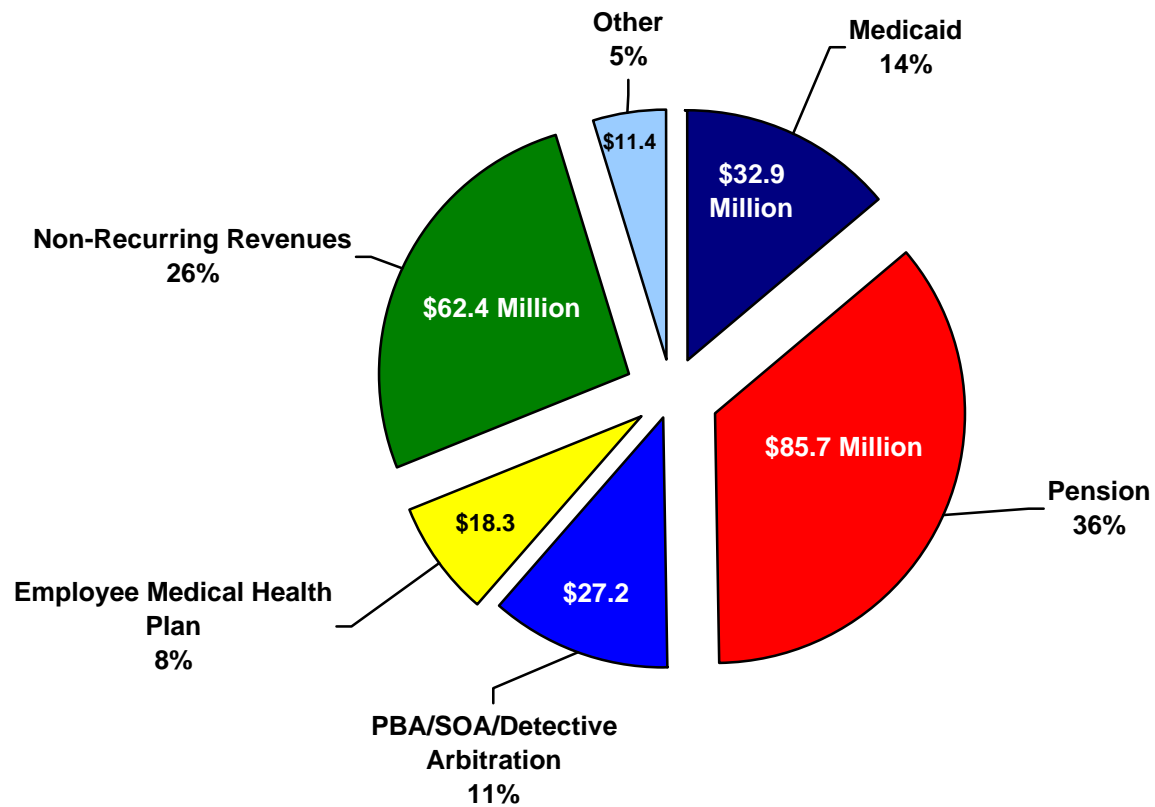
It should be noted that 73% of the expected budget shortfall will occur on the discretionary side of the County’s operating budget (*“See attached Suffolk County Projected 2005 Operating Budget Shortfall—All Funds-\$238 Million, Mandated vs. Discretionary”*).

Suffolk County's gross Medicaid costs for 1997 totaled \$141.9 million. That figure grew to an estimated \$238 million for 2003. For 2005, assuming a 15% growth in costs, we are projecting gross Medicaid costs of \$315.1 million. The County budget is simply unable to accommodate the costs of a program, which continues to grow at an unprecedented rate.

The proposed 2004-2005 Governor’s Executive Budget can substantially impact the bottom line of the budget shortfall, primarily in relation to Medicaid costs and pension obligations. The Governor has proposed pension relief in his budget proposal, however, the State Comptroller, who controls the pension fund, has claimed that the Governor’s pension proposal is unconstitutional.

Suffolk County Projected 2005 Operating Budget Shortfall

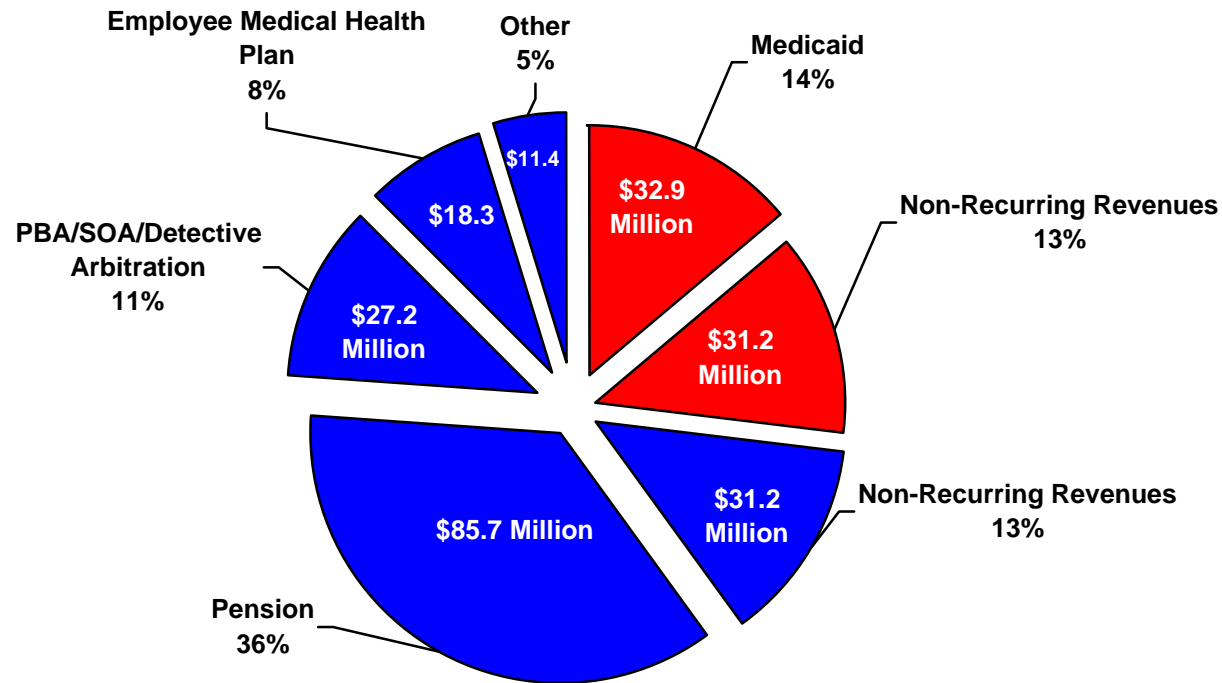
All Funds - \$238 Million



As of 2/18/2004

Suffolk County Projected 2005 Operating Budget Shortfall

All Funds - \$238 Million, Mandated vs. Discretionary



Color Key

MANDATED \$64.1 Million, 27% of Total

DISCRETIONARY \$173.9 Million, 73 % of Total

As of 2/18/2004

STRUCTURAL BUDGETARY SHORTFALL CATEGORY

AUDIT AND CONTROL

Pension Reform

PROPOSAL

Suffolk County requests the State Comptroller, Alan Hevesi, in conjunction with Governor Pataki to adopt administrative rules for the purpose of providing relief from the burden of pension obligations which are estimated for 2004 at \$131.4 million. These costs include:

- \$6.3 million in debt service costs for 2002 ERIP costs;
- \$125 million in pension costs - \$60 million was included in the 2004 adopted budget, and a resolution bonding the remaining \$6 Million has been introduced by the County Executive (IR 1093-04).

JUSTIFICATION

Every year, public employers are required to pay a percentage of their payroll into the New York State Pension Fund. The rate of this pension contribution depends upon a number of factors, but is primarily affected by the condition of the economy because the Pension Fund is heavily invested in the stock market. Through the 1990s, New York State pension costs were relatively low due to a surging stock market. However, a turn around in the market caused huge revenue shortfalls in the state employee pension fund, raising rates from approximately 4.5% of payroll to 12% for most workers.

In reaction to pleas from local governments, several proposals have been offered to provide pension relief in 2005. One proposal was offered by the Governor in his 2004-2005 proposed State Budget and a counter-proposal offered by State Comptroller Alan Hevesi, who controls the pension fund. The estimated costs of the proposals are detailed below and are shown in the table and attached graph:

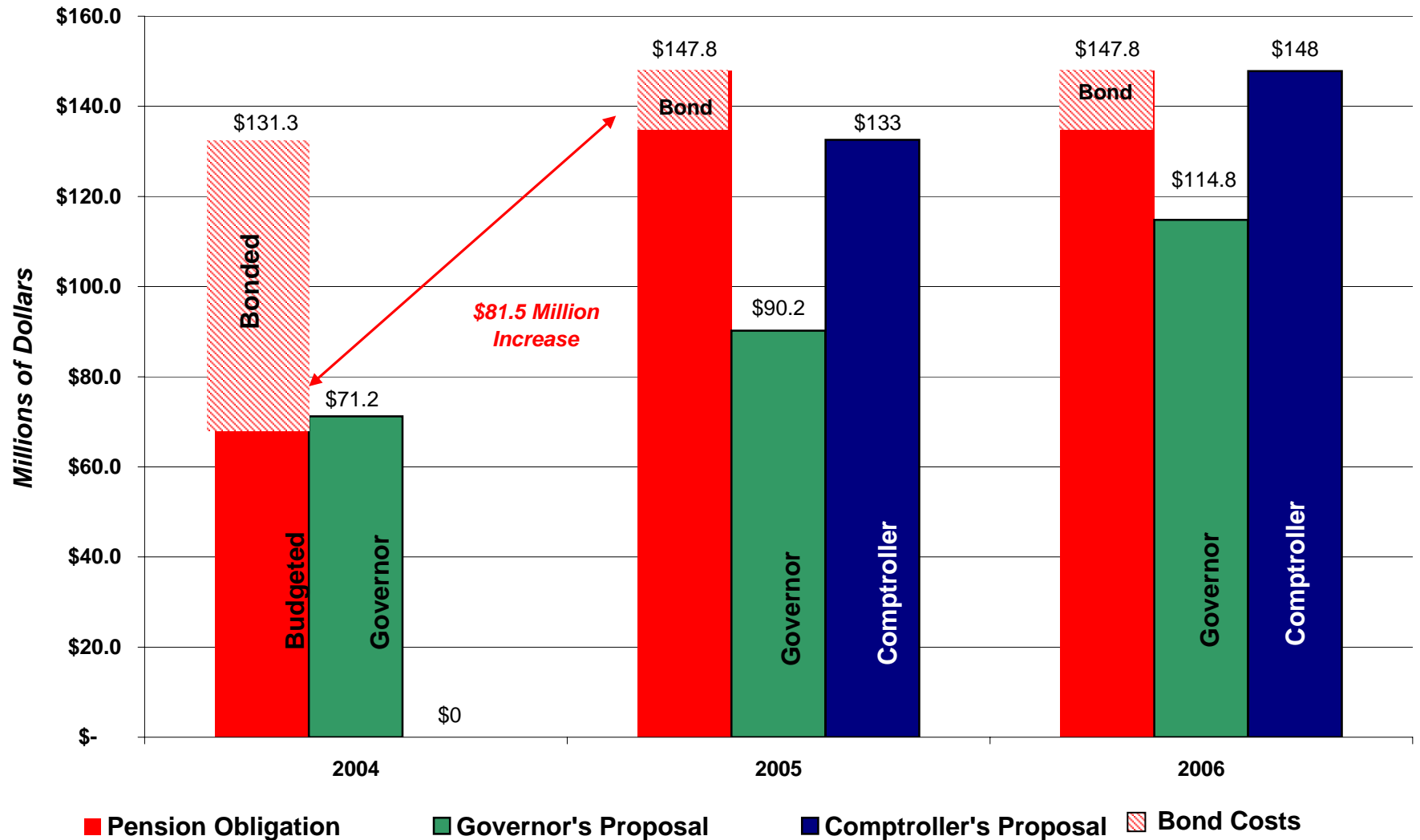
Comparison of Total Cost of Suffolk County Pension Obligation Scenarios

In Millions of Dollars

Year	Current Obligation	Governor's Proposal	Comptroller's Proposal
2004	\$ 131.3	\$ 71.2	\$ -
2005	\$ 147.8	\$ 90.2	\$ 133.0
2006	\$ 147.8	\$ 114.8	\$ 148.0

*** The 2004 total obligation includes \$65 million in costs that were not included in the 2004 adopted budget and are to be bonded. 2005 current obligations include debt service costs from the 2004 bond issuance.**

Suffolk County Pension Obligation Scenarios



1. Governor Pataki's Pension Relief Proposals

- a) 12 pension proposals were released by the Governor in connection to his 2004-2005 proposed state budget.
- b) The proposal which would have the most impact on Suffolk County is the establishment of an employer contribution rate cap that would limit annual increases in employer contribution rates to 2 percentage points for the Employee Retirement System and 3 percentage points for the Police and Fire Retirement System.
- c) Estimated savings from this plan are \$60 million in 2004 and \$57 million in 2005.
- d) The rate cap would provide the most substantial relief to Suffolk County. However, the State Comptroller has informed the New York State Division of Budget that its main pension proposals are unconstitutional. According to the Comptroller, the State Constitution permits only those changes to the pension fund that would strengthen the fund, not provide fiscal relief for state and local governments. Further, imposing a cap on increases in employer contribution rates would cause the rates to be set arbitrarily, would result in under funding, and the Comptroller "breaching his fiduciary duty to protect the Systems' funds and the interests of their beneficiaries."
- e) As this plan provides the most long-term relief to Suffolk County, County Executive Levy supports its adoption within legal boundaries.

Comparison to Current Pension Obligation

In Millions of Dollars

Year	Governor's Proposal	Comptroller's Proposal
2004	\$ (60.1)	\$ (131.3)
2005	\$ (57.6)	\$ (14.8)
2006	\$ (33.0)	\$ 0.2
Three Year Total:	\$ (150.7)	\$ (145.9)

2. Comptroller Hevesi's Proposal:

- a) Hevesi's main proposal is to permanently change the pension bill payment due date from December 15th to February 1st, effective beginning with the December 15, 2004 payment. This would shift the 2004 payment into the 2005 fiscal year, providing "one-shot" of pension relief.

b) While this plan would provide relief in 2004, there are four major concerns:

- i. Suffolk County operates on a modified accrual basis of accounting. This means that expenses associated with 2004 will be charged back to 2004 even if they are paid in the beginning of 2005. While the Comptroller has stated that he would make an exception for this one-time impact caused by a permanent change in the pension bill due date, an accounting treatment permitting this exclusion has not been issued.

Ernst & Young, Suffolk County's independent auditors, have verbally opined that the 2004 obligation would not be treated as a deferral to 2005 and would not therefore be accrued to 2004.

- ii. Paying the pension bill in February rather than December will increase the cost by approximately \$1.25 million for interest the state will charge for the delayed payment. This interest charge (47 days at 8% on a total bill of \$125 million) will most likely be shown on the bill as a "reduction of discount" rather than an interest charge.
- iii. The proposal only provides one year of relief in 2004. In 2005, the County's cost will be approximately \$133 million (including interest), which will have a substantial impact on the property tax warrant.
- iv. Under current Suffolk statute, any positive fund balance from current year operations must be either returned to the taxpayers as a credit or to the Tax Stabilization Reserve Fund. The Tax Warrant (the amount Suffolk taxpayers actually pay) may increase drastically in 2005.

LEGISLATIVE HISTORY

The Comptroller did provide relief to the municipalities last year by allowing a later payment to the Fund and allowing Counties to bond out costs over 7%.

STRUCTURAL BUDGET SHORTFALL CATEGORY

DEPARTMENT OF SOCIAL SERVICES

Cap on County Share of Medicaid

PROPOSAL

In appreciation of the tremendous impact Medicaid has on the State budget, as well as county budgets, Suffolk County, NYSAC and County Executive's throughout the state are calling on the State Legislature to support the **Local Taxpayer Relief Act of 2004**, legislation that would cap the local share of Medicaid by limiting the annual local share of growth or exchange 7/8 of 1% of the Sales Tax for the state assumption of all County Medicaid costs.

Suffolk County taxpayers can no longer afford the escalating costs of Medicaid and other unfunded state mandates while sustaining cuts in the Governor's 2004-2005 Executive State Budget without large tax increases and service cuts. Suffolk County and the State Legislature must work together to preserve the solvency of Suffolk County government by providing a Comprehensive Shared Responsibilities Solution to long-term relief.

Until counties and the state work together to stop the growth of Medicaid at the local level we will never meet the goal of stabilizing the local real property tax burden, which plays a major role in boosting the economic competitiveness of New York.

JUSTIFICATION

The Local **Taxpayer Relief Act of 2004** will provide some fiscal stability for County taxpayers while still providing a significant level of local dollars in support of statewide Medicaid expenses

Currently, New York State has the most expensive Medicaid program in the nation. The total Medicaid spending per enrollee is twice the national average. While part of the reason for this disparity can be attributed to New York's higher poverty rate, the major contributing factors include recent expansions in eligibility and program services.

While Suffolk County supports the laudable goals of all Medicaid programs, it objects to the way in which the State has sought to finance them. Counties have minimal authority to manage, control or reduce their Medicaid costs, and therefore serve primarily as a means to transfer a portion of the State's share of Medicaid from the statewide tax base to local property tax bases.

Over the last ten years, local Medicaid costs have more than doubled and are the single largest appropriation in almost every county budget. Local Medicaid costs amount to four times the County's property tax levy. Suffolk County's gross Medicaid costs for 1997 totaled \$141.9 million. That figure grew to an estimated \$238.5 million in 2003 and \$283.8 million in 2004. For 2005, assuming a 15% growth in costs, we are projecting

gross Medicaid costs of \$315.1 million. The resurgence of local Medicaid growth reflects the underlying problems and funding inequities of the Medicaid program, which place unique burdens on counties, jeopardize the long-term fiscal stability of county governments, and add to the burden of regressive local property taxes. The County budget is simply unable to accommodate the costs of a program that continues to grow at an unprecedented rate.

CURRENT LEGISLATION

A variety of proposals are currently being floated around New York State to alleviate the growing burden of Medicaid costs on localities. Suffolk County's local share Medicaid costs have increased dramatically since 1997, from \$108 million to an estimated \$219 million in 2004. (*See attached chart, Suffolk County Net Medicaid Costs.*)

Most proposals "cap" local share Medicaid costs at a specific point in time. For example, if costs are capped at the 2003 level, localities will never have to pay more in local share Medicaid costs than they paid in 2003. This is advantageous as the growth in local share Medicaid costs have put a substantial tax burden on counties across New York State, and the growth is expected to continue.

Some proposals also call for a "swap" of local share Medicaid costs with local sales tax receipts. A swap would authorize the state to withhold a certain portion of local sales tax receipts that equal local share Medicaid costs.

While some proposals call for an even dollar for dollar swap of Medicaid for sales tax, others call for a specific percentage of the sales tax to be exchanged for a capped local share. For some counties, this could result in a net loss if sales tax revenues are growing faster than Medicaid costs.

1. A4185/S2108, "An Act to Amend the Social Services Law, in Relation to Limiting the Local Financial Share of the Costs of the Medical Assistance Program"

✓ **CAP LEGISLATION**

- ✓ Introduced February 2003 with majority sponsorship in both houses.
- ✓ Calls for a cap on local share Medicaid costs at 2001 levels. NYS would absorb any costs over 2001 local costs.
- ✓ NYSAC has supported this legislation.
- ✓ Suffolk County would win considerably with this Legislation. 2001 net Medicaid expenditures were approximately \$127 million. 2004 estimated net costs are \$219, a difference of **\$92 million**.

2. ***A4240/S3700, "An Act to Amend the Social Services Law, in Relation to Limiting Certain Medicaid Expenses Paid by a Social Services District"***

✓ **CAP LEGISLATION**

- ✓ Introduced February 2003.
- ✓ Calls for a cap on local share Medicaid costs at the amount expended by a county in the fiscal year closing just prior to the year in which the bill takes effect.
- ✓ Suffolk County would benefit from this legislation if it was enacted in 2004, and expenses were capped at the 2003 level. 2003 net Medicaid costs are estimated at \$161 million, versus the \$219 million estimated for 2004.

SUFFOLK COUNTY SUPPORTS THE FOLLOWING SWAP (#3):

3. ***IR 1142-04, "Adopting Phase I Shared Responsibilities Comprehensive No Frills Budget Plan to Protect Taxpayers Against Fiscal Crisis and Ensure Affordable County Government (State Component)," Introduced by Presiding Officer Caracappa on the request of County Executive Levy, Laid on the Table February 24, 2004***

✓ **MEDICAID SWAP LEGISLATION**

- ✓ This resolution was part of a four-resolution cost-containment package offered by the County Executive. The State Component resolution includes a proposal to swap sales tax revenue for the local share of Medicaid costs as follows:
 - i. Suffolk County will let the State assume all County Medicaid costs in exchange for 7/8 of the revenues generated by 1% of County sales and compensating use tax revenues.
 - ii. The State will not reduce State aid for other Suffolk County programs by an amount equivalent to or greater than the savings generated by the transfer;
 - iii. The State gets to keep the growth in the 7/8 of 1% of sales tax revenues, however Suffolk County will never be burdened with local share Medicaid costs again.

4. ***The "Giambra Medicaid Swap Scenario"***

✓ **MEDICAID SWAP LEGISLATION**

- ✓ County Executive Joel Giambra of Erie County has authored a proposal to have counties provide New York State with revenue equal to 1% of gross sales tax collections, or in the alternative, an amount equal to the net Medicaid local share, whichever is less.

- ✓ Using 2003 estimates, this proposal would leave NY State with a gap of \$311 million. Counties would negotiate with the state to identify additional revenue, cost containment and/or other programmatic swaps to close this gap.
- ✓ The local share of Medicaid would be capped at 2003 levels.
- ✓ This proposal does not have any impact in its first year on Suffolk County. The State simply withholds the amount of sales tax equal to our local county share. However, any cap to the County's local share of Medicaid costs will be beneficial in future years, if Medicaid costs continue to rise.
- ✓ 2003 net local share Medicaid costs are estimated at \$161.5 million (the Giambra proposal shows our net local share as \$175 million). 2004 estimated net costs are \$219 million. If costs are capped at \$175 million, Suffolk's costs could be reduced by \$44 million.

5. **The "Jimino Medicaid Swap Proposal"**

- ✓ **MEDICAID SWAP LEGISLATION**
- ✓ County Executive Kathy Jimino of Rensselaer County has authored a proposal to have the state eliminate the local share of Medicaid costs in exchange for a percentage of the total taxable sales that would be assessed to counties annually.
- ✓ In the first year of the proposal, a county's local share would be identified and compared to how many sales tax points it equals. Rensselaer County, the local share of Medicaid is approximately equal to 1.14% of local sales tax. Whatever the match percentage is for a locality would then be locked in and the county required to turn over that percentage of sales tax in perpetuity.
- ✓ Local share Medicaid costs are capped at the "current" level.

SUFFOLK COUNTY SUPPORTS THE FOLLOWING CAP:

6. **The Local Taxpayer Relief Act of 2004**

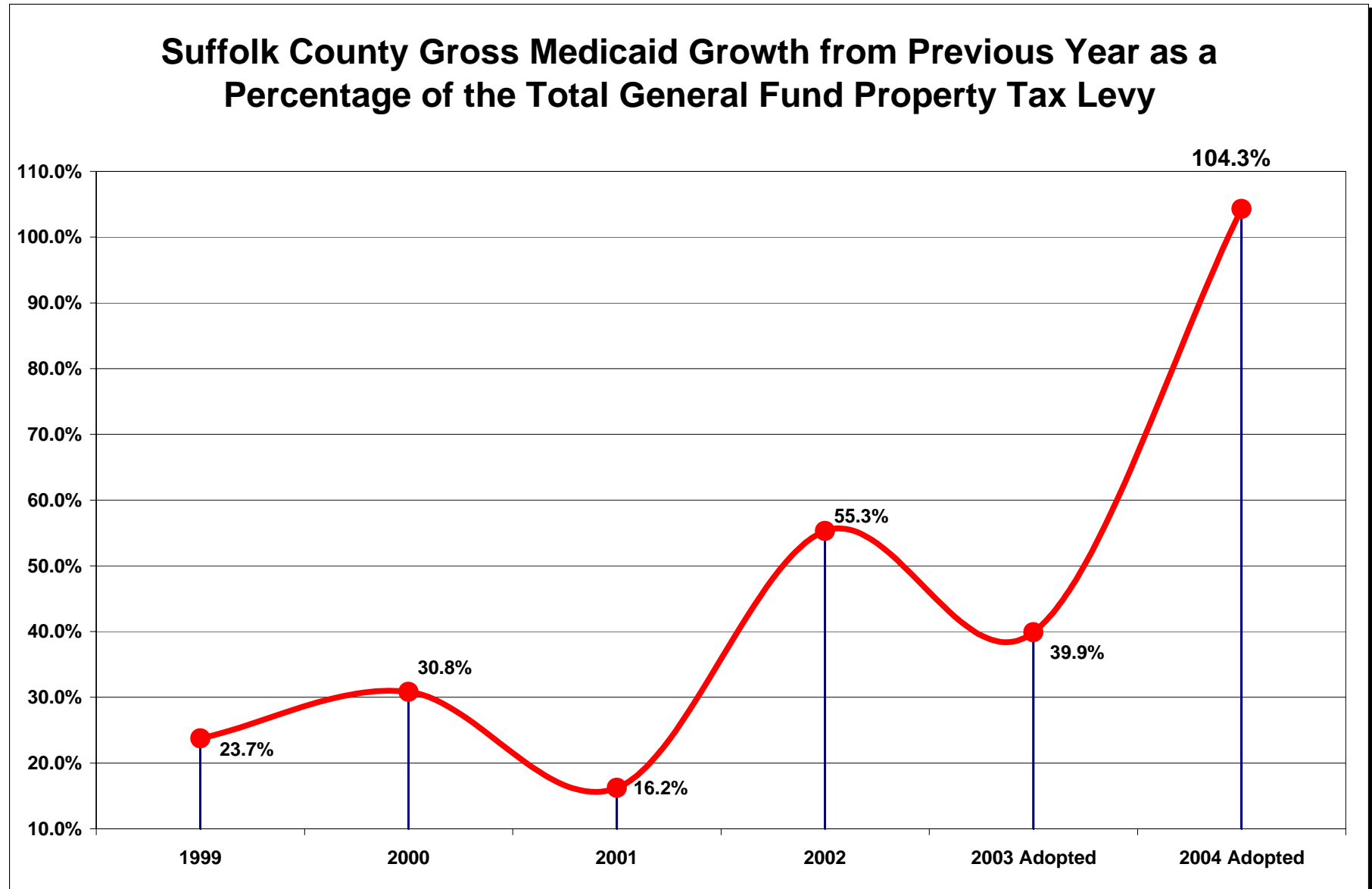
- ✓ **MEDICAID CAP LEGISLATION**
- ✓ County Executive Levy is currently working with NYSAC and several county executives to draft a new Medicaid proposal that would cap local share costs at 2003 levels.
- ✓ This proposal would provide Suffolk with a cost savings of \$45,084,684.
- ✓ No swap is involved.

BACKGROUND & STATISTICS

Medicaid is a national health insurance plan for low-income families, the elderly and the disabled. The responsibility for financing this program rests with the federal government and the states. The federal government has a matching rate, known as the federal medical assistance percentage (FMAP), which varies from state to state and can range from 50 percent to 77 percent. The federal matching rate in New York is among the lowest of all the states at 50 percent (only 10 other states have the same FMAP rate) and ranks well below the national average of 60 percent.

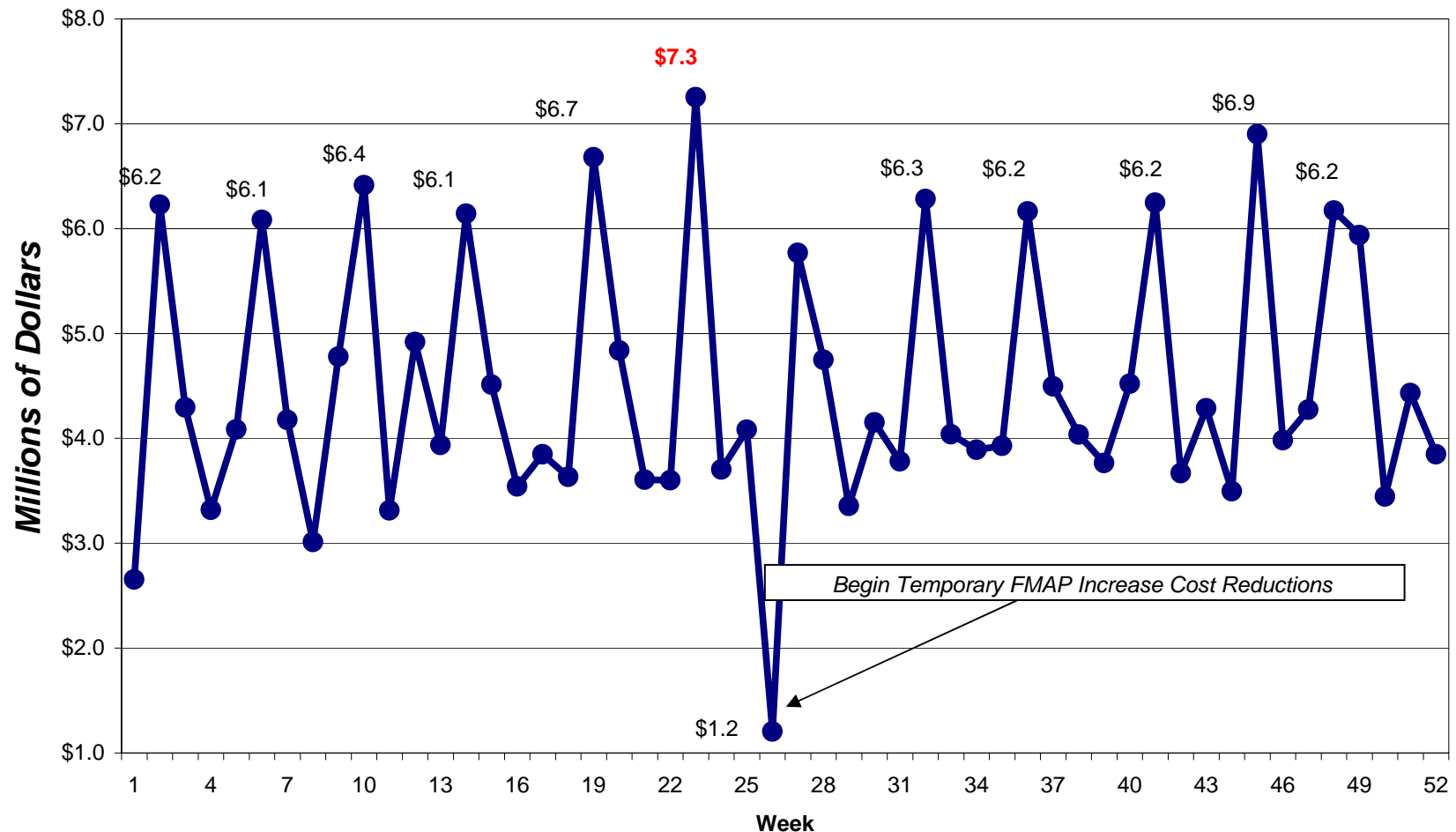
Since the enactment of the Medicaid program in 1966, counties in New York State have been required to share in the costs of these services. Counties are mandated by the State to contribute a 25% matching share with the exception of long term care services, which requires a 9.38% local share. While nineteen other states also require a local matching component, on average the local Medicaid share in those states is significantly less than New York's and only applies to a few aspects of the program (in some cases only administration).

The increase between the 2003 and 2004 adopted Medicaid Expenditures (\$55.8 million) exceeds Suffolk's total 2004 general fund property tax levy.



2003 gross Medicaid expenditures are estimated at \$238 million, 15% more than 2002 costs. Suffolk had 11 weekly shares that exceeded \$6 million, including one \$7.3 million share.

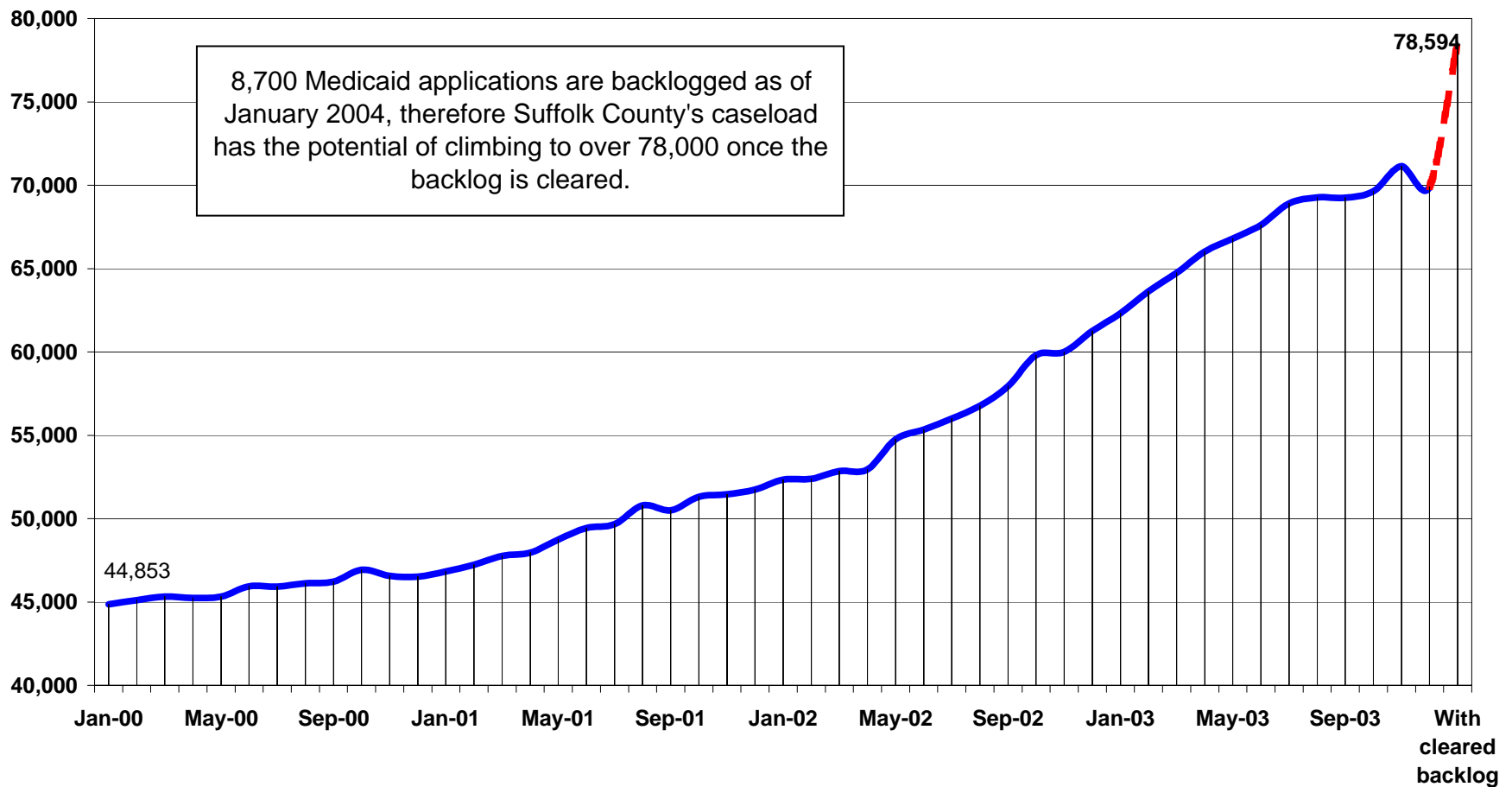
Suffolk County's 2003 Weekly Medicaid Shares



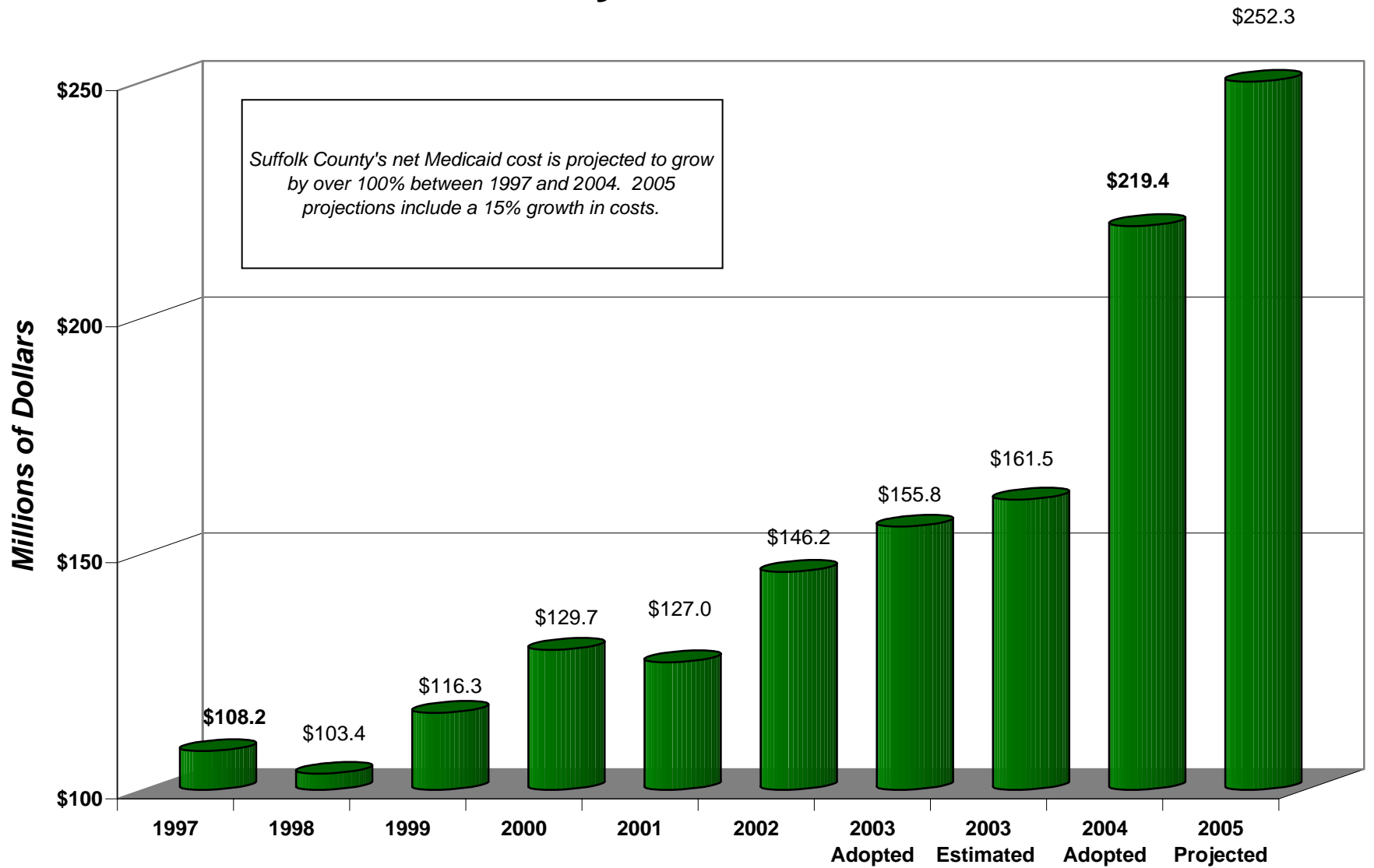
Note: The week 26 share is only \$1.2 million because it included FMAP retroactive reductions of \$2.6 million for 4/1/03 through 6/30/03.

The Medicaid caseload in Suffolk has risen by over 50% in the last several years.

Suffolk County Medicaid Caseload January 2000 - December 2003

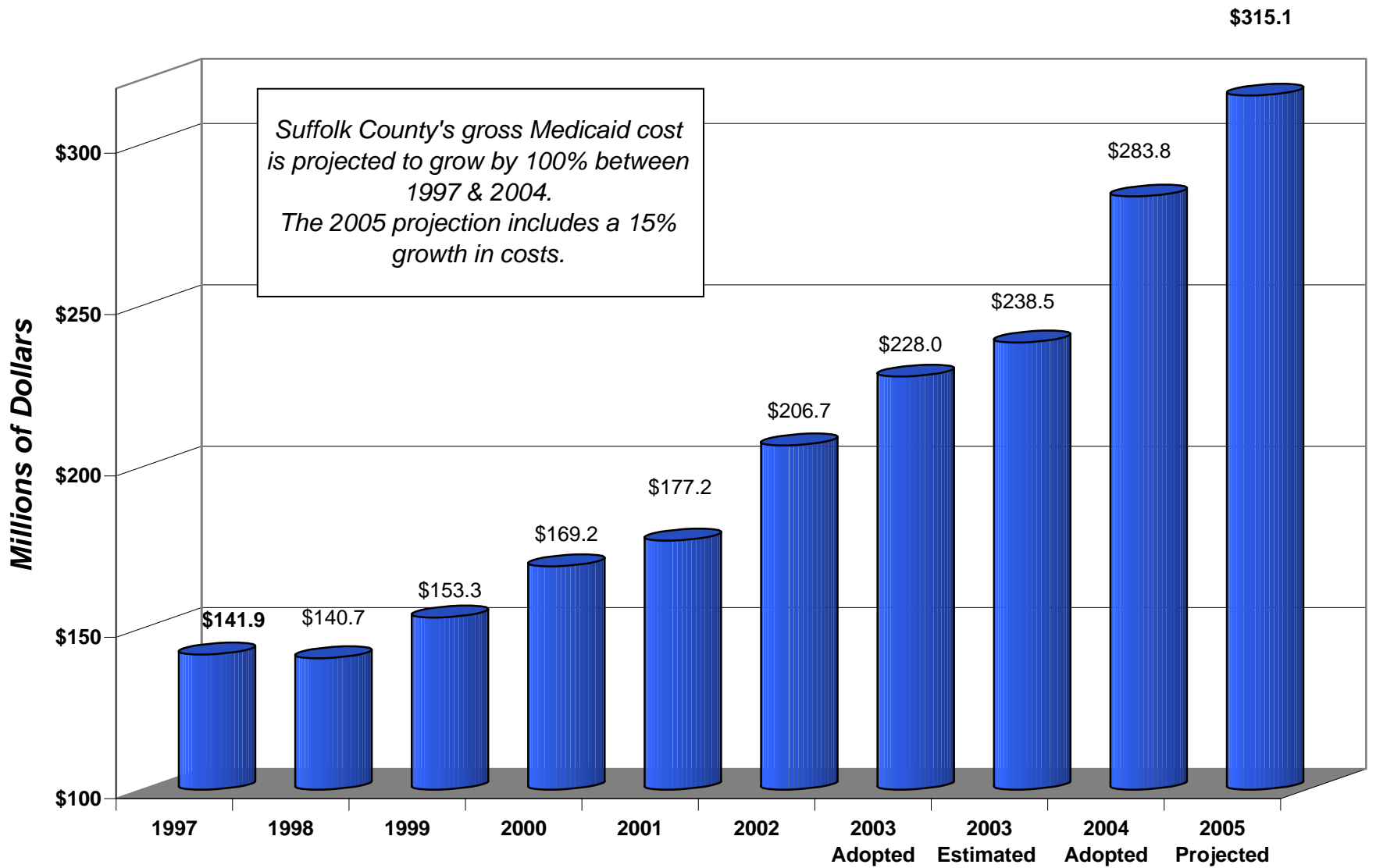


Suffolk County Net Medicaid Costs



Suffolk County's 2004 Medicaid costs are budgeted at almost \$284 million

Suffolk County Gross Medicaid Costs



DRAFT
STATE OF NEW YORK
S. [Number] A. [Number]
2004-2005 Regular Sessions
SENATE-ASSEMBLY

Introduced by Member of Senate [*Need Name of Senate Prime Sponsor*] ---Multi-Sponsored by Members of Senate [*Need Names of Additional Senators*]--read once and referred to the Committee on Social Services

Introduced by Member of Assembly [*Need Name of Assembly Prime Sponsor*] ----Multi-Sponsored by Members of Assembly [*Need Names of Additional Assembly Sponsors*] - read once and referred to the Committee on Social Services

AN ACT to amend the social services law and the real property tax law, in relation to establishing the **Local Taxpayer Relief Act of 2004** by limiting certain Medicaid expenses paid by a social services district and notifying local taxpayers of such savings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred sixty-seven of the social services law is amended by adding a new section (q) to read as follows:

§367-Q CAP ON FINANCIAL RESPONSIBILITY OF LOCAL SOCIAL SERVICES 4

DISTRICTS. 1. Notwithstanding any inconsistent provision of this chapter or any other provision of law to the contrary, for the state fiscal year beginning April first, two thousand four, and each state fiscal year thereafter, a local social services district shall only be responsible for financing claims of providers of medical assistance attributable to such district, at the amount the district paid to the state as a share of state's expenditures for claims of providers of medical assistance for the period April first, two thousand three through March thirty-first, two thousand four.

§2. Section 922 of the real property tax law is amended by adding a new subdivision 4 13 to read as follows:

§922 (4) The county or locality charged with the responsibility for financing local share of medical assistance shall have the authority to add information or another section to the town-county tax bill which would provide more information to the general public of the total local share cost of medical assistance in taxable calendar year, and the total local medical assistance relief provided to the county pursuant to section three hundred sixty- seven (q) of the social services law as amended pursuant to this chapter.

§ 3. This act shall take effect April 1, 2004.

MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)
submitted in accordance with Senate Rule VI, Sec 1

TITLE:

AN ACT to amend the social services law and the real property tax law, in relation to establishing the Local Taxpayer Relief Act of 2004 by limiting certain Medicaid expenses paid by social services districts and notifying local taxpayers of such savings

PURPOSE: This bill would provide relief to local taxpayers by limiting the annual local share growth of the medical assistance program.

SUMMARY OF PROVISIONS:

Section one amends the Social Services Law by adding a new section 367-q to limit the annual local share growth of the medical assistance program. Beginning April 1, 2004, local social services districts would not be responsible for paying to the state a medical assistance contribution that exceeds the amount paid to the state from April 1, 2003 to March 31, 2004. Section two amends the Real Property Tax Law by adding a new section 922 (4) to notify local taxpayers of the local Medicaid relief provided by this act. Section three contains the effective date.

JUSTIFICATION:

Medicaid is the backbone of the nation's health care system, serving the vital needs of millions of Americans. Unlike most states, New York funds a substantial portion of its Medicaid costs at the local level. Under New York law, counties and New York City are required to pay 50 percent of the non-federal share of most Medicaid services except for long-term care, for which counties contribute 20%. Currently, New York requires counties to fund approximately 34 percent of the non-federal Medicaid share. In contrast, North Carolina, the only other state that requires counties to contribute to a broad range of Medicaid services, collects about 15 percent of their non-federal Medicaid spending from local taxpayers.

New York's Medicaid program, as it is structured today, can no longer be supported at the local level, especially through regressive property and sales taxes. For example, over the past two years, county property taxes have increased on average 22%, the residents of 23 counties have been forced to pay higher sales taxes, and the residents of all counties have gotten less value for their dollar as counties have been forced to reduce all general county services to fund the growth of this one state controlled program.

Under this legislation, counties and New York City would maintain their current Medicaid funding and the state, who controls the scope and price of services, would be responsible for any additional costs. To ensure that local taxpayers are notified of the local benefit of this act, localities would be required to document the Medicaid relief provided by the state on local tax bills.

LEGISLATIVE HISTORY: New Bill

FISCAL IMPLICATIONS: \$380-\$560 million in SFY 2004-05

EFFECTIVE DATE: April 1, 2004

Local Taxpayer Relief Act of 2004

Impact of Medicaid local share cap at SFY 2003-04 Levels

SFY 2003-04 SFY 2004-05 (+/-) Percent Change

Gross MA Local w/cost containment \$6,630,000,000 \$7,010,000,000 \$380,000,000 5.7%

Gross MA Local w/o cost containment \$6,630,000,000 \$7,190,000,000 \$560,000,000 8.4%

Local Taxpayer Savings from SFY 2003-04 Cap

SFY 2004-05 SFY 2005-06 CY 2004 CY 2005

Counties \$159,985,453 \$333,484,006 \$119,989,090 \$290,109,368

New York City \$400,014,547 \$833,816,145 \$300,010,910 \$725,365,746

Total \$560,000,000 \$1,167,300,151 \$420,000,000 \$1,015,475,113

Local Taxpayer Relief Act of 2004

Estimated Local Taxpayer Relief

Est. 2004 Est. 2005

County Local Taxpayer Relief Local Taxpayer Relief

Albany \$3,490,604 \$8,439,574

Allegany \$541,593 \$1,309,461

Broome \$2,167,127 \$5,239,676

Cattaraugus \$925,839 \$2,238,493

Cayuga \$812,447 \$1,964,333

Chautauqua \$1,719,812 \$4,158,158

Chemung \$1,165,463 \$2,817,854

Chenango \$531,627 \$1,285,367

Clinton \$1,005,471 \$2,431,025

Columbia \$663,158 \$1,603,381

Cortland \$545,155 \$1,318,074

Delaware \$475,079 \$1,148,645

Dutchess \$2,324,667 \$5,620,575

Erie \$11,674,263 \$28,226,007

Essex \$384,567 \$929,805

Franklin \$546,745 \$1,321,919

Fulton \$813,476 \$1,966,820

Genesee \$516,315 \$1,248,345

Greene \$503,372 \$1,217,053

Hamilton \$46,315 \$111,981

Herkimer \$734,180 \$1,775,098

Jefferson \$1,176,320 \$2,844,103

Lewis \$305,770 \$739,290

Livingston \$489,705 \$1,184,008

Madison \$640,183 \$1,547,832

Monroe \$9,820,383 \$23,743,702

Montgomery \$702,377 \$1,698,207

Nassau \$12,253,885 \$29,627,417

Niagara \$2,298,456 \$5,557,202

Oneida \$3,085,545 \$7,460,223

Onondaga \$5,699,253 \$13,779,643

Ontario \$882,465 \$2,133,621

Orange \$3,968,166 \$9,594,224

Orleans \$438,243 \$1,059,583

Oswego \$1,451,449 \$3,509,311

Otsego \$557,761 \$1,348,554

Putnam \$563,026 \$1,361,283

Rensselaer \$1,859,417 \$4,495,695

Rockland \$3,609,941 \$8,728,107

St. Lawrence \$1,356,882 \$3,280,667

Saratoga \$1,312,617 \$3,173,644

Schenectady \$1,806,531 \$4,367,827

Schoharie \$317,899 \$768,616

Schuyler \$218,912 \$529,286

Seneca \$346,868 \$838,657

Steuben \$1,213,205 \$2,933,283

Suffolk \$13,191,150 \$31,893,534
 Sullivan \$1,076,023 \$2,601,606
 Tioga \$414,626 \$1,002,482
 Tompkins \$637,085 \$1,540,343
 Ulster \$2,090,274 \$5,053,860
 Warren \$633,881 \$1,532,595
 Washington \$641,902 \$1,551,990
 Wayne \$748,183 \$1,808,955
 Westchester \$12,077,871 \$29,201,851
 Wyoming \$286,784 \$693,385
 Yates \$228,776 \$553,135
 Rest of State \$119,989,090 \$290,109,368
 New York City \$300,010,910 \$725,365,746

Total \$420,000,000 \$1,015,475,113

Budgetary Impact of the Local Taxpayer Relief Act of 2004

Jan-04 Feb-04 Mar-04 Apr-04 May-04 Jun 2004 Jul-04 Aug-04 Sep-04 Oct-04 Nov-04 Dec-04

Jan-05 Feb-05 Mar-05 Apr-05 May-05 Jun-05

County Fiscal Year

NYC Fiscal Year

State Fiscal Year 2004-05 State Budget Impact SFY 2005-06 State Budget Impact

2004 County Taxpayer Relief 2005 Local Taxpayer Relief

2005 NYC Taxpayer Relief 2004 NYC Taxpayer Relief

STRUCTURAL BUDGETARY SHORTFALL CATEGORY

POLICE DEPARTMENT

Highway Patrol Reimbursement

PROPOSAL

Enact Legislation to provide state assistance to reimburse Suffolk County for its costs associated with patrolling the Long Island Expressway and Sunrise Highway. In addition, Suffolk County requests an adequate appropriation in the 04/05 State budgets to cover these patrolling expenses.

JUSTIFICATION

Since the 1960's, Suffolk County Police have almost exclusively patrolled the Long Island Expressway and Sunrise Highway within the County's territorial limits. While both of these highways are considered to be within the State's jurisdiction, the County continues to provide these law enforcement services without any financial assistance from New York State. Westchester County, on the other hand, has received millions of dollars in state funding for patrolling its state highways over the past several years. In fact, as part of its 2003 Legislative Agenda, Westchester is requesting the State to include an additional \$1 million in its reimbursement allocation for patrolling state highways.

Over the last several years, the cost of providing police services in Suffolk County has placed a tremendous strain on the County's Budget, especially in light of the County's increasing costs for state pension contributions and mandated programs. This year, the County will spend approximately \$12 million on patrolling costs for the Long Island Expressway and Sunrise Highway. The majority of these expenses are attributed to police salaries and fringe benefits, which have skyrocketed as a result of binding arbitration. Like Westchester, Suffolk County should be reimbursed for providing what is essentially a state function.

The requested legislation would establish a reimbursement mechanism allowing Suffolk County to recoup its highway patrolling expenses for Long Island Expressway and Sunrise Highway. The enactment of this bill is necessary to create the statutory framework for processing and certifying claims submitted by the County to the State. The other critical component to this legislation is establishing an adequate funding source. Therefore, Suffolk County is also requesting the Legislature to secure sufficient funding in the 2004-05 State Budget to cover the County's patrolling expenses.

By enacting both a statutory and budgetary framework, the State will help to resolve what continues to be a long-standing inequity. These positive steps will enable the County to continue patrolling the Long Island Expressway and Sunrise Highway without threatening interruptions in service or imposing increased obligations on the State police.

FISCAL IMPACT

This proposal would have a positive impact on Suffolk County. Based on the latest salary and benefit costs, the fiscal impact on the county now exceeds \$12 million and will probably continue to increase as salary agreements are reached with other county unions. The \$12 million figure does not include the cost of the Motor Carrier Safety Unit, which includes 4 Police Officers and 1 Sergeant and would add approximately \$800,000 to the total.

BACKGROUND & STATISTICS

When the Suffolk County Police Department was formed on January 1, 1960, the LIE was only a small part of what it is today. The road ended at what is today exit 56. Sunrise Highway at the time was not a limited access highway as it is today and was not patrolled by the highway unit. Sunrise was two lanes in each direction with traffic lights at many intersections.

When the Highway Patrol was created, it was developed as a multi-purpose unit. In addition to traffic enforcement and safety, they acted as an emergency response team, motorcycle escort and enforcement unit, and developed the beginnings of the breath testing and radar enforcement technologies.

As the LIE expanded first out to exit 62 and then to its current ending point in Riverhead the SCPD followed with additional manpower and patrols.

On Sunrise Highway the same process evolved. Prior to Sunrise Highway becoming a limited access highway, it was patrolled by the local sector car that covered a particular portion of the highway. When the first section of limited access highway was completed, the Highway Patrol Bureau expanded to meet the need. Again expansion continued as the express portion was extended further east.

To the best of our knowledge, New York State and the State Troopers have never been involved in patrolling the LIE and/or Sunrise Highway. The SCPD started their patrols in the early 60's and have just continued this function throughout the years. There have been no formal discussions between the SCPD and the State regarding the transfer of this function to the State. However, the Police Department has previously supplied information, statistics and costs related to this issue to the prior County Executive administration. We are unaware of any meetings, which might have taken place between the County Executive's Office and New York State. There was also a joint effort between Nassau and Suffolk county executives requesting financial support from the State with no positive results.

LEGISLATIVE HISTORY

Although this proposal was submitted as part of the 2003 State Legislative Agenda, no legislative action has been taken to date.

SUMMARY OF HIGHWAY PATROL EXPENSES												
2004 ANNUALIZED COSTS												
4200-HIGHWAY PATROL BUREAU (ADMIN)												
TITLE	# STAFF	ANNUAL SALARY	OTHER 1000'S	TOTAL PERSONNEL	RETIRE -MENT	SOCIAL SECURITY	HEALTH INS.	BENEFIT FUND	TOTAL BENEFITS	TOTAL COST	% ALLOC	ADJUSTED COST
Deputy Inspector	1	126,005	21,169	147,174	10,832	7,583	10,792	1,754	30,961	178,135	80.3%	\$142,977
Captain	1	119,400	20,059	139,459	10,264	7,472	10,792	1,754	30,282	169,741	80.3%	\$136,239
Lieutenant	3	333,081	55,958	389,039	28,633	21,989	32,376	5,262	88,261	477,299	80.3%	\$383,095
Police Officer	5	438,575	73,681	512,256	37,702	34,675	53,960	8,770	135,107	647,363	80.3%	\$519,594
Police Operations Aide	3	106,227	0	106,227	5,290	8,126	32,376	3,393	49,185	155,412	80.3%	\$124,739
Senior Clerk Typist	1	40,820	0	40,820	2,033	3,123	10,792	1,131	17,079	57,899	80.3%	\$46,472
Principal Clerk	1	44,657	0	44,657	2,224	3,416	10,792	1,131	17,563	62,220	80.3%	\$49,940
Head Clerk	1	49,042	0	49,042	2,442	3,752	10,792	1,131	18,117	67,159	80.3%	\$53,904
SUB-TOTAL	15	1,257,807	170,866	1,428,674	99,421	90,137	172,672	24,326	386,555	1,815,229		\$1,456,960
4210-HIGHWAY ENFORCEMENT												
TITLE	# STAFF	ANNUAL SALARY	OTHER 1000'S	TOTAL PERSONNEL	RETIRE -MENT	SOCIAL SECURITY	HEALTH INS.	BENEFIT FUND	TOTAL BENEFITS	TOTAL COST	% ALLOC	ADJUSTED COST
Sergeant	9	897,651	150,805	1,048,456	77,166	64,248	97,128	15,786	254,328	1,302,784	100.0%	\$1,302,784
Police Officer	56	4,912,040	825,223	5,737,263	422,263	388,360	604,352	98,224	1,513,198	7,250,461	100.0%	\$7,250,461
SUB-TOTAL	65	5,809,691	976,028	6,785,719	499,429	452,607	701,480	114,010	1,767,526	8,553,245		\$8,553,245
NON GRANT RELATED OVERTIME												\$944,679
TOTAL PERSONNEL & FRINGE BENEFITS	80	7,067,498	1,146,894	8,214,393	598,850	542,744	874,152	138,336	2,154,081	10,368,474		\$10,954,884
						<u>OTHER THAN PERSONNEL COSTS</u>						
						ANNUAL OPERATING SUPPLIES						\$326,500
						VEHICLE REPLACEMENT & MAINT.						\$406,250
						ANNUAL GAS USAGE COSTS						\$204,165
						MAINTENANCE IN-LIEU OF RENT						\$162,000
						GRAND TOTAL						\$12,053,799

STRUCTURAL BUDGETARY CATEGORY

COUNTY EXECUTIVE BUDGET OFFICE

Judicial Facilities Agency

PROPOSAL

Support State-enabling legislation to expand the powers of Suffolk's Judicial Facilities Agency to allow it to finance the construction of and own facilities other than the courts.

JUSTIFICATION

Bonds issued by the Judicial Facilities Agency would be tax exempt, which would reduce the interest costs on the Suffolk County's borrowing and in turn reduce leasing costs. Annual lease costs would then be eligible for state reimbursement.

FISCAL IMPACT

This proposal, if enacted, would provide tremendous savings to Suffolk County. It has been estimated that, on just one project, the County would save \$12,000,000 in lease costs.

BACKGROUND & STATISTICS

The Suffolk County Legislature passed a sense resolution urging the state to expand the authority of the JFA on May 29, 2003. An amendment is needed to Title 16, Article 8 of the New York Public Authorities Law, which established the JFA. It should state:

"Amend...for the purpose of granting the SJFA expanded powers to construct any government court buildings and any judicial facility—not just the John P. Cohalan Court Complex—including civil and criminal court buildings, government offices, and all necessary related facilities and equipment, including acquisition of land, operation and maintenance, and to consider the agency as a political subdivision of the State for the purpose of financial aid eligibility, and to extend the date of maturity of bonds to the estimated economic life of the financed project."

LEGISLATIVE HISTORY

In recent years, the Suffolk County Legislature has passed Sense Resolutions urging the state to expand the powers of Suffolk County's Judicial Facilities Agency. New York State Assemblyman Robert Sweeney has indicated he would introduce this legislation, once our needs have been properly outlined.

**MEMORIALIZING RESOLUTION REQUESTING
STATE OF NEW YORK TO EXPAND SUFFOLK
COUNTY JUDICIAL FACILITIES AGENCY (JFA)
ACT**

WHEREAS, Title 16, Article 8 of the NEW YORK PUBLIC AUTHORITIES LAW established a Suffolk County Judicial Facilities Agency (JFA) for the construction of the John P. Cohalan Court Complex; and

WHEREAS, granting the JFA broader powers for construction, operation and maintenance of any judicial facility or any aidable building appurtenant thereto, would help Suffolk County construct and finance, more cost effectively, other courts and County office buildings at sites such as the former Kings Park Psychiatric Center because Suffolk County would then be able to contract with the JFA to build and/or oversee building on behalf of the JFA for the benefit of Suffolk County; now, therefore, be it

1st RESOLVED, that this Legislature hereby requests the State of New York to amend Title 16, Article 8, Sections 2350-(a), (b), (c), (e), (f), and (g) of Title 16, Article 8 of the NEW YORK PUBLIC AUTHORITIES LAW for the purpose of granting the Suffolk County Judicial Facilities Agency (JFA) expanded powers to construct any government court buildings and any judicial facility--not just the John P. Cohalan Court Complex--including civil and criminal court buildings, government offices, and all necessary related facilities and equipment, including acquisition of land, operation and maintenance; and to consider the agency as a political subdivision of the State for the purpose of financial aid eligibility; and to extend the date of maturity of bonds to the estimated economic life of the financed project; and be it further

2nd RESOLVED, that the Clerk of this Legislature is hereby directed to forward copies of this Resolution to Governor George E. Pataki; to the Majority Leader of the New York State Senate Joseph L. Bruno; to the Speaker of the New York State Assembly Sheldon Silver; to the Minority Leaders of the New York State Senate and the New York State Assembly; and to each member of the Long Island delegation to the New York State Legislature.

DATED: August 5, 2003

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Office of the President

BOARD OF TRUSTEES MEETING

August 14, 2003

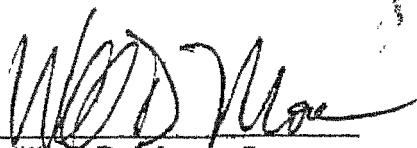
**RESOLUTION NO.109 MEMORIALIZING A REQUEST OF THE STATE OF
NEW YORK TO EXPAND SUFFOLK COUNTY JUDICIAL FACILITIES
AGENCY (JFA) ACT**

WHEREAS, Title 16 Article 8 of the NEW YORK PUBLIC AUTHORITIES LAW established a Suffolk County Judicial Facilities Agency (JFA) for the construction of the John P. Cohalan Court Complex, and

WHEREAS, the Suffolk County Legislature has approved a sense resolution requesting the State of New York to modify the lending authority under the Suffolk County Judicial Facilities Agency (JFA) Act, and

WHEREAS, such a modification of lending authority would be advantageous to Suffolk County Community College, be it therefore

RESOLVED, that the Board of Trustees hereby supports the resolution of the County of Suffolk requesting the State of New York to amend the Suffolk County Judicial Facilities Agency (JFA) Act to expand its lending authority.


William D. Moore, Secretary
Board of Trustees

ANALYSIS OF GOVERNOR'S BUDGET

Governor's Budget Analysis
Fiscal Index

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<u>Address Comprehensive Pension Reform</u> <i>Suffolk County Supports This Proposal</i>	Comptroller & Budget	\$60,000,000 Possible Expenditure Reduction	Possible Expenditure Reduction	48-49
<u>Contain Medicaid Costs</u> <i>Suffolk County Supports and Opposes Components of This Proposal</i>	Social Services	\$3,600,000 Expenditure Reduction	\$19,900,000 Expenditure Reduction	49-50 & 59
<u>Award 8 Video Lottery Terminal Licenses</u> <i>Suffolk County Supports This Proposal</i>	Off Track Betting	\$0	\$15,000,000 Revenue Enhancement	50-51
<u>Institute Four Week Clothing Sales Tax Exemption</u> <i>Suffolk County Takes No Position on This Proposal</i>	Budget	\$7,400,000 Revenue Reduction	\$14,500,000 Revenue Reduction	51
<u>Enable Enhanced Wireless 911</u> <i>Suffolk County Supports This Proposal</i>	Police & Fire, Rescue & Emergency Services	\$6,500,000 Revenue Enhancement	Unknown	52
<u>Assume State Medicaid Long Term Care Costs</u> <i>Suffolk County Supports This Proposal</i>	Social Services	No Fiscal Impact in 04	\$6,100,000 Expenditure Reduction	52
<u>Institute a Vehicle Insurance Fee</u> <i>Suffolk County Supports the State giving Counties the option of considering this fee.</i>	Police	\$2,925,000 Revenue Enhancement	\$5,850,000 Revenue Enhancement	52
<u>Continue Administrative Cap Reduction for Public Assistance Programs</u> <i>Suffolk County Opposes This Proposal</i>	Social Services	\$2,500,000 Revenue Reduction	Unknown Revenue Reduction	53
<u>Enact Public Health Cost Savings through Article 6 Reductions and Early Intervention Controls</u> <i>Suffolk County Supports and Opposes Components of This Proposal</i>	Health	\$1,762,500 Revenue Reduction	\$2,350,000 Revenue Reduction	53-55

Governor's Budget Analysis
Fiscal Index

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<u>Eliminate Local Government Revenue Sharing Program for Counties</u> <i>Suffolk County Opposes This Proposal</i>	Social Services	\$2,200,000 Revenue Reduction Already incorporated in budget	\$2,200,000 Revenue Reduction Already incorporated in budget	60
<u>Reduce Base Aid to Suffolk County Community College</u> <i>Suffolk County Opposes This Proposal</i>	Suffolk Community College	\$1,850,000 Revenue Reduction	\$1,850,000 Revenue Reduction	55-56
<u>Reduce (by 50%) the Transfer of TANF Funds to Title XX</u> <i>Suffolk County Opposes This Proposal</i>	Social Services	\$1,500,000 Revenue Reduction	\$1,500,000 Revenue Reduction	56
<u>Sanction Welfare Grant for Employment Non Compliance</u> <i>Suffolk County Supports This Proposal</i>	Labor & Social Services	\$1,000,000 Expenditure Reduction	\$500,000 Expenditure Reduction	57-58
<u>Establish a Block Grant for Detention Costs</u> <i>Suffolk County Opposes This Proposal</i>	Probation, Sheriff & Social Services	Unknown Revenue Reduction	Unknown Revenue Reduction	56
<u>Reduce CHIPs & Marchiselli Funding</u> <i>Suffolk County Opposes This Proposal</i>	Public Works	\$1,000,000 Revenue Reduction	\$1,000,000 Revenue Reduction	58
<u>Authorize Mandate Relief</u> <i>Suffolk County Supports This Proposal</i>	Comptroller & Public Works	Expenditure Reduction	Unknown	57
<u>Maintain Foster Care Block Grant at Current Levels</u> <i>Suffolk County Opposes This Proposal</i>	Social Services	Unknown	Unknown	60-61
<u>Reduce State Aid for Alternatives to Incarceration for Probation Department</u> <i>Suffolk County Opposes This Proposal</i>	Probation, Sheriff & Social Services	\$248,929 Revenue Reduction	\$331,905 Revenue Reduction	61

Governor's Budget Analysis
Fiscal Index

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<u>Reduce TANF Funding for Summer Jobs by 40%</u> <i>Suffolk County Opposes This Proposal</i>	Labor	\$314,000 Revenue Reduction	\$314,000 Revenue Reduction	61-62
<u>Cut Community Mental Health Aid to Localities by \$7.7 million Statewide</u> <i>Suffolk County Opposes This Proposal</i>	Health	\$200,000 Revenue Reduction	\$200,000 Revenue Reduction	62
<u>Define Division of Parole Reimbursement for County Jails</u> <i>Suffolk County Opposes This Proposal</i>	Sheriff	\$112,500 Expenditure Increase	\$150,000 Expenditure Increase	58
<u>Reduce Funding to Prevention Programs by 5%</u> <i>Suffolk County Opposes This Proposal</i>	Health	\$100,000 Revenue Reduction	\$100,000 Revenue Reduction	62
<u>Enact a 10% Public Assistance Grant Reduction (Long Term)</u> <i>Suffolk County Supports This Proposal</i>	Social Services	\$100,000 Expenditure Reduction	\$100,000 Expenditure Reduction	62-63
<u>Establish Reimbursement Parity Among Methadone Maintenance Treatment Programs</u> <i>Suffolk County Supports This Proposal</i>	Health	\$37,000 Revenue Reduction	\$50,000 Revenue Reduction	63
<u>Increase the Nursing Home Provider Assessment Fee to 6%</u> <i>Suffolk County Opposes This Proposal</i>	Health	\$20,000 Revenue Reduction	\$40,000 Revenue Reduction	63-64
<u>Decrease Expanded In Home Services for the Elderly (EISEP) Funding</u> <i>Suffolk County Opposes This Proposal</i>	Aging	\$13,500 Revenue Reduction	\$13,500 Revenue Reduction	64

Governor's Budget Analysis
Fiscal Index

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<u>Reduce Cornell Cooperative 224 Funding by 5%</u> <i>Suffolk County Opposes This Proposal</i>	Cornell Cooperative Extension	\$11,000 Revenue Reduction	\$11,000 Revenue Reduction	64
<u>Reduce Long Term Care Ombudsman Program Funding</u> <i>Suffolk County Opposes This Proposal</i>	Aging	\$3,095 Revenue Reduction	\$3,095 Revenue Reduction	64-65
<u>Extend & Reform Empire Zone Program</u> <i>Suffolk County Withholds Support on This Proposal Pending Details</i>	Economic Development	No Fiscal Impact	No Fiscal Impact	58-59
<u>Continue Open Ended 65% Reimbursement Funding for Child Welfare Services</u> <i>Suffolk County Supports This Proposal</i>	Social Services	Revenue Enhancement	Revenue Enhancement	60
<u>Step Down Amount of "Earned Income Disregard" for Public Assistance Recipients</u> <i>Suffolk County Supports This Proposal</i>	Social Services	Expenditure Reduction	Expenditure Reduction	60
<u>Permit "Aggregate Weight" Standard for Illegal Drug Evidence</u> <i>Suffolk County Supports This Proposal</i>	Health, District Attorney, Police & County Attorney	Expenditure Reduction	Expenditure Reduction	65
<u>Increase Fees for Indigent Legal Services</u> <i>Suffolk County Opposes This Proposal</i>	Legal Aid, County Attorney & Social Services	Expenditure Increase	Expenditure Increase	65
<u>Make Quick Draw Permanent</u> <i>Suffolk County Supports This Proposal</i>	Off Track Betting	Minimal Impact	Minimal Impact	65-66
<u>Remove Restrictions on Quick Draw</u> <i>Suffolk County Supports This Proposal</i>	Off Track Betting	Minimal Impact	Minimal Impact	66

Governor's Budget Analysis
Fiscal Index

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<u>Allow Grand Jury Testimony by Affidavit</u> <i>Suffolk County Supports This Proposal</i>	Police, District Attorney & County Attorney	Expenditure Reduction	Expenditure Reduction	66
<u>Authorize Fees to Cover Costs of Probation Supervisor</u> <i>Suffolk County supports the State giving Counties the option of continuing this practice.</i>	Probation & Police	No impact if passes. Revenue Reduction if it doesn't pass.	No impact if passes. Revenue Reduction if it doesn't pass.	66
<u>Allow Owner Controlled Insurance on Large Public Construction Projects</u> <i>Suffolk County Supports This Proposal</i>	Public Works	Expenditure Reduction	Expenditure Reduction	66-67
<u>Include SSI Income in Welfare Eligibility Determination</u> <i>Suffolk County Supports This Proposal</i>	Social Services	Expenditure Reduction	Expenditure Reduction	67
<u>Invest \$1.9 million in Child Welfare Enhancement Programs</u> <i>Suffolk County Supports This Proposal</i>	Social Services	Revenue Enhancement	Revenue Enhancement	67
<u>Reduce TANF Funding for PINS</u> <i>Suffolk County Opposes This Proposal</i>	Social Services	Revenue Reduction	Revenue Reduction	67

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<p><u>Comprehensive Pension Reform-</u> The Governor's Budget proposes a reform initiative that 1) addresses the need for more reasonable level of increases to local government and State pension contributions; 2) offers fiscal relief to local governments through flexible pension funding laws; 3) imposes strict rules on funding new benefits; and 4) requires better reporting. <i>Suffolk County Supports This Proposal</i></p>	Comptroller & Budget	\$60,000,000 Expenditure Reduction	Possible Expenditure Reduction	48-49
<p><u>Medicaid Cost Containments-</u> The Governor's Budget proposes measures to contain overall Medicaid costs through the reduction of services or the strengthening of eligibility requirements. <i>Suffolk County Supports and Opposes Components of This Proposal</i></p>	Social Services	\$3,600,000 Expenditure Reduction	\$19,900,000 Expenditure Reduction	49-50 & 59
<p><u>Video Lottery Terminals-</u> The Governor's Budget authorizes the Lottery Division to award up to eight licenses for the operation of a video lottery franchise gaming facilities in NYS. <i>Suffolk County Supports This Proposal</i></p>	Off Track Betting	\$0	\$15,000,000 Revenue Enhancement	50-51
<p><u>Four Week Clothing Sales Tax Exemption-</u> The Governor's Budget amends New York State Tax Law to replace the permanent \$110 clothing and footwear tax exemption with four \$500 exemption weeks. <i>Suffolk County Takes No Position on This Proposal</i></p>	Budget	\$7,400,000 Revenue Reduction	\$14,500,000 Revenue Reduction	51
<p><u>Enhanced Wireless 911-</u> The Governor's Budget encourages intergovernmental cooperation for the statewide deployment of enhanced wireless 911 service and clarifies the costs that are eligible for funding or reimbursement. <i>Suffolk County Supports This Proposal</i></p>	Police & Fire, Rescue & Emergency Services	\$6,500,000 Revenue Enhancement	Revenue Enhancement	52

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<p><u>Medicaid State Assumption of Long Term Care Costs-</u> The Governor's Budget proposes that the State take over the entire cost of the long term care program over a ten year period, commencing January 1, 2005. <i>Suffolk County Supports This Proposal</i></p>	Social Services		\$6,100,000 Expenditure Reduction	52
<p><u>Vehicle Insurance Fee-</u> The Governor's Budget allows localities to assess a fee up to \$5 on vehicle insurance policies to fund local public safety needs. <i>Suffolk County supports the State giving Counties the option of considering this fee.</i></p>	Police	\$2,925,000 Revenue Enhancement	\$5,850,000 Revenue Enhancement	52
<p><u>Administrative Cap Reduction-</u> The Governor's Budget continues to reduce State reimbursement to counties for administrative costs of public assistance programs. <i>Suffolk County Opposes This Proposal</i></p>	Social Services	\$2,500,000 Revenue Reduction Already incorporated in budget	Unknown Revenue Reduction	53
<p><u>Public Health Initiatives -</u> The Governor's Budget enacts public health initiatives to A. Eliminate low priority programs, B. Strengthen pharmacy fraud prevention, C. Achieve costs savings through Article 6 reductions and early intervention controls D. Facilitate access to new Medicare discount Card for low income EPIC enrollees. <i>Suffolk County Supports and Opposes Components of This Proposal</i></p>	Health	\$1,762,500 Revenue Reduction	\$2,350,000 Revenue Reduction	53-55
<p><u>Reduction in Base Aid-</u> The Governor's Budget reduces base aid for Full Time Equivalent funding which will result in a loss of \$1,850,000 this year and next. <i>Suffolk County Opposes This Proposal</i></p>	Suffolk Community College	\$1,850,000 Revenue Reduction	\$1,850,000 Revenue Reduction	55-56

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<p><u>Reduction of the Transfer of TANF Funds to Title XX-</u> The Governor's Budget proposes a 50% reduction in TANF funds transferred to Title XX for child welfare services. <i>Suffolk County Opposes This Proposal</i></p>	Social Services	\$1,500,000 Revenue Reduction	\$1,500,000 Revenue Reduction	56
<p><u>Block Grant for Detention Costs-</u> The Governor's Budget establishes a block grant for reimbursing institutional care in secure and non secure detention facilities to discourage excessive lengths of stay. Grant allocations would be based on expenditure history. If implemented, this initiative will probably result in a significant reduction in the level of reimbursement. <i>Suffolk County Opposes This Proposal</i></p>	Probation Sheriff Social Services	Unknown Revenue Reduction	Unknown Revenue Reduction	56
<p><u>Mandate Relief-</u> The Governor's Budget authorizes comprehensive mandate relief initiatives for localities. This bill increases local government flexibility and removes long-standing, State-imposed impediments to efficient government operation. Repeals Wicks Law. <i>Suffolk County Supports This Proposal</i></p>	Comptroller & Public Works	Possible Expenditure Reduction	Possible Expenditure Reduction	57
<p><u>Welfare Grant/Employment Non Compliance (Full Case Sanction)-</u> The Governor's Budget withholds the entire household's welfare grant if the head of the household is not in compliance with employment requirements. <i>Suffolk County Supports This Proposal</i></p>	Labor & Social Services	\$1,000,000 Expenditure Reduction	\$500,000 Expenditure Reduction	57-58
<p><u>CHIPs & Marchiselli Funding-</u> The Governor's Budget authorizes 2004-05 CHIPs and Marchiselli local capital highway assistance programs. <i>Suffolk County Opposes This Proposal</i></p>	Public Works	\$1,000,000 Revenue Reduction	\$1,000,000 Revenue Reduction	58

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<p><u>Division of Parole Reimbursement for County Jails-</u> The Governor's Budget clarifies when the Div. Of Parole is responsible for reimbursing local jails for housing a presumptively released, paroled, or conditionally released violator. <i>Suffolk County Opposes This Proposal</i></p>	Sheriff	\$112,500 Expenditure Increase	\$150,000 Expenditure Increase	58
<p><u>Extend & Reform Empire Zone Program-</u> The Governor's Budget seeks to amend state law to improve accountability, focus benefits to communities that most need job growth and investment, provide flexibility to secure projects with large job creation potential, preserve local decision-making authority, and enhance State oversight. <i>Suffolk County Withholds Support on This Proposal Pending Details</i></p>	Economic Development	No Fiscal Impact	No Fiscal Impact	58-59
<p><u>Medicaid Funding Changes-</u> The Governor's Budget restructures the state's Medicaid program through initiatives to funding changes. <i>Suffolk County Supports & Opposes Components of This Proposal</i></p>	Social Services	Unknown	Unknown	59
<p><u>Open Ended Funding for Child Welfare Services-</u> The Governor's Budget proposes open ended funding in 65% reimbursement for child welfare services. <i>Suffolk County Supports This Proposal</i></p>	Social Services	Revenue Enhancement	Revenue Enhancement	60

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<p><u>Step Down Amount of "Earned Income Disregard" for Public Assistance Recipients</u> -</p> <p>The Governor's Budget discourages long term reliance on welfare by phasing out the amount of an individuals income that may be ignored in determining welfare benefit eligibility.</p> <p><i>Suffolk County Supports This Proposal</i></p>	Social Services	Expenditure Reduction	Expenditure Reduction	60
<p><u>Local Government Revenue Sharing Program-</u></p> <p>The Governor's Budget permanently authorizes the State's revenue sharing program with local governments, sets funding for the program at the 2003-04 funding level, and eliminates payments to Counties.</p> <p><i>Suffolk County Opposes This Proposal</i></p>	Social Services	\$2,200,000 Revenue Reduction already accounted for in 2004 budget	\$2,200,000 Revenue Reduction already accounted for in 2004 budget	60
<p><u>Foster Care Block Grant-</u></p> <p>The Governor's Budget proposes maintaining the block grant at last year's rate.</p> <p><i>Suffolk County Opposes This Proposal</i></p>	Social Services	Unknown	Unknown	60-61
<p><u>Reduction in State Aid-</u></p> <p>The Governor's Budget reduces probation and alternative to incarceration aid by 5%, costing County \$331,905 next year.</p> <p><i>Suffolk County Opposes This Proposal</i></p>	Probation	\$248,929 Revenue Reduction	\$331,905 Revenue Reduction	61
<p><u>Summer Jobs for TANF-</u></p> <p>The Governor's Budget proposes to reduce funding for this program by 40%, in the amount of \$10 million from \$25 million to \$15 million.</p> <p><i>Suffolk County Opposes This Proposal</i></p>	Labor	\$314,000 Revenue Reduction	\$314,000 Revenue Reduction	61-62

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<u>Cut in Aid to Localities (Community Mental Health)-</u> The Governor's Budget proposes a \$7.7 million cut statewide in Aid to localities. <i>Suffolk County Opposes This Proposal</i>	Health	\$200,000 Revenue Reduction	\$200,000 Revenue Reduction	62
<u>Reduction in Funding to Prevention Programs-</u> The Governor's Budget proposes a 5% reduction in funding to prevention programs. <i>Suffolk County Opposes This Proposal</i>	Health	\$100,000 Revenue Reduction	\$100,000 Revenue Reduction	62
<u>Public Assistance Grant Reduction (Long Term)-</u> The Governor's Budget enacts a 10 % reduction on the non shelter component of the welfare benefit for families that have been on assistance for more than 5 years, and a 10% reduction for single adults and married couples with no children. <i>Suffolk County Supports This Proposal</i>	Social Services	\$100,000 Expenditure Reduction	\$100,000 Expenditure Reduction	62-63
<u>Reimbursement Parity Among Methadone Maintenance Treatment Programs -</u> The Governor's Budget re-establishes reimbursement parity among all Methadone Treatment Programs. <i>Suffolk County Supports This Proposal</i>	Health	\$37,000 Revenue Reduction	\$50,000 Revenue Reduction	63
<u>John J. Foley Skilled Nursing Facility-</u> The Governor's Budget increases the provider assessment fee to 6% on non Medicaid, Medicare based revenues with no elimination provision. <i>Suffolk County Opposes This Proposal</i>	Health	\$20,000 Revenue Reduction	\$40,000 Revenue Reduction	63-64

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<p><u>Decrease in Expanded In Home Services for the Elderly-</u> The Governor's Budget proposes a \$250,000 decrease in EISEP funding. <i>Suffolk County Opposes This Proposal</i></p>	Aging	\$13,500 Revenue Reduction	\$13,500 Revenue Reduction	64
<p><u>Reduction in Cornell Cooperative Funding-</u> The Governor's Budget proposes a 5% cut in Cornell Cooperative Extension 224 Funding. <i>Suffolk County Opposes This Proposal</i></p>	Cornell Cooperative Extension	\$11,000 Revenue Reduction	\$11,000 Revenue Reduction	64
<p><u>Long Term Ombudsman-</u> The Governor's Budget proposes a decrease of \$58,400 in LTCOP funding. <i>Suffolk County Opposes This Proposal</i></p>	Aging	\$3,095 Revenue Reduction	\$3,095 Revenue Reduction	64-65
<p><u>Permit "Aggregate Weight" Standard for Illegal Drug Evidence-</u> The Governor's Budget allows more timely processing of forensic evidence by measuring controlled substances in terms of aggregate rather than pure weight in defining quantities for various drug offenses. <i>Suffolk County Supports This Proposal</i></p>	Health, District Attorney, Police, County Attorney	Expenditure Reduction	Expenditure Reduction	65
<p><u>Indigent Services Costs-</u> The Governor's Budget changes the funding formula for a local assistance program that provides payments to counties for indigent legal services, increases fees and accelerates financial assistance to counties for costs associated with law guardian and assigned counsel expenses. <i>Suffolk County Opposes This Proposal</i></p>	Legal Aid, County Attorney, Social Services	Expenditure Increase but difficult to quantify	Expenditure Increase but difficult to quantify	65

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<u>Make Quick Draw Permanent-</u> The Governor's Budget gives the NYS Lottery Division the authority to operate Quick Draw permanently. <i>Suffolk County Supports This Proposal</i>	Off Track Betting	Minimal Impact	Minimal Impact	65-66
<u>Remove Restrictions on Quick Draw-</u> The Governor's Budget removes the 1995 Quick Draw restrictions on hours of operation, food sales and minimum size of the premises. <i>Suffolk County Supports This Proposal</i>	Off Track Betting	Minimal Impact	Minimal Impact	66
<u>Grand Jury Testimony by Affidavit-</u> The Governor's Budget permits grand jury testimony by police officers to be provided by affidavit rather than requiring personal appearances. <i>Suffolk County Supports This Proposal</i>	Police, District Attorney & County Attorney	Expenditure Reduction	Expenditure Reduction	66
<u>Costs of Probation Supervisor</u> The Governor's Budget authorizes the imposition of fees at local option to cover the costs of probation supervision. This legislation will allow the County to continue charging a fee for probation supervision services which currently generates \$250,000. <i>Suffolk County supports the State giving Counties the option of continuing this practice.</i>	Probation & Police	No impact if passes. Revenue Reduction if it doesn't pass.	No impact if passes. Revenue Reduction if it doesn't pass.	66
<u>Owner Controlled Insurance on Construction Projects-</u> The Governor's Budget permits municipalities to use owner controlled insurance on large single public construction projects (over \$50M) generating savings on insurance. <i>Suffolk County Supports This Proposal</i>	Public Works	Expenditure Reduction	Expenditure Reduction	66-67

Governor's Budget Analysis Summary

Description	Department	2004 County Fiscal Impact	2005 County Fiscal Impact	Narrative Page Numbers
<u>Child Welfare Enhancement-</u> The Governor's Budget proposes to invest \$1.9 million in innovative child welfare programs. <i>Suffolk County Supports This Proposal</i>	Social Services	Revenue Enhancement	Revenue Enhancement	67
<u>Reduced TANF Funding for PINS-</u> The Governor's Budget proposes to decrease TANF funding for PINS. <i>Suffolk County Opposes This Proposal</i>	Social Services	Revenue Reduction	Revenue Reduction	67
<u>SSI Income Inclusion in Welfare Eligibility Determination-</u> The Governor's Budget recommends including the SSI benefits in the family grant eligibility determination. <i>Suffolk County Supports This Proposal</i>	Social Services	Expenditure Reduction	Expenditure Reduction	67

Appendix

2004-2005

Governor's Budget Analysis Overview

Suffolk County is facing a \$238 million shortfall, the largest budget shortfall in the County's history. The shortfall is primarily due to the skyrocketing costs of un-funded State mandates, such as the Medicaid Program and exacerbated by an \$87.5 million increase coming due from the State Comptroller's Office for the County contribution to the municipal employees pension fund. Add to this the soaring costs of Police Arbitration Awards, \$12 million in State Highway Patrol expenditures and the implementation of the \$4 million Living Wage, and the prognosis of the immediate future is a grim one.

The \$238 million shortfall is now four times the size of the entire general fund property tax levy, and that calculated shortfall does not include the impact of the 2004-2005 Executive Budget. The large budgetary items that have contributed to this shortfall are (*See attached pie chart, "Suffolk County Projected 2005 Operating Budget Shortfall—All Funds-\$238 Million."*):

- \$85.7 million increase in pension obligations,
- \$32.9 million increase in Medicaid costs,
- \$27.2 million for PBA/SOA/Detective arbitration award

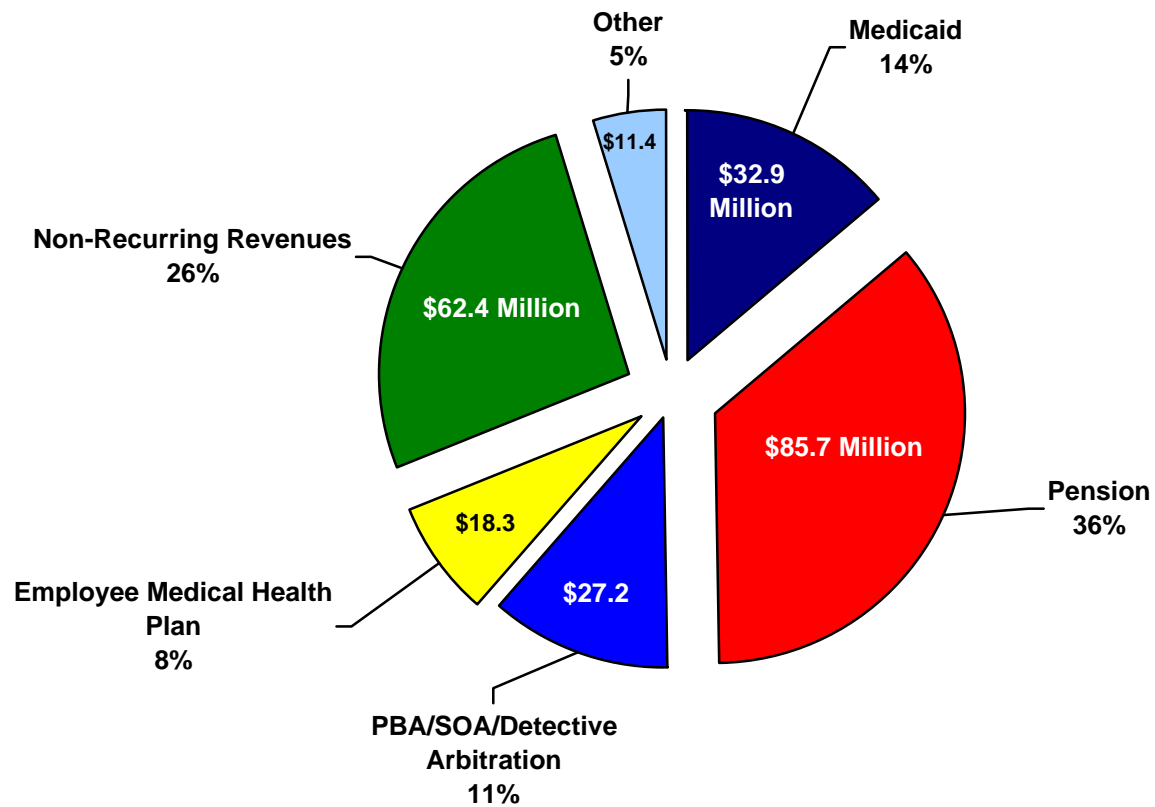
It should be noted that 73% of the expected budget shortfall will occur on the discretionary side of the County's operating budget (*"See attached Suffolk County Projected 2005 Operating Budget Shortfall—All Funds-\$238 Million, Mandated vs. Discretionary"*).

Suffolk County's gross Medicaid costs for 1997 totaled \$141.9 million. That figure grew to an estimated \$238 million for 2003. For 2005, assuming a 15% growth in costs, we are projecting gross Medicaid costs of \$315.1 million. The County budget is simply unable to accommodate the costs of a program, which continues to grow at an unprecedented rate.

The proposed 2004-2005 Governor's Executive Budget can substantially impact the bottom line of the budget shortfall, primarily in relation to Medicaid costs and pension obligations. The Governor has proposed pension relief in his budget proposal, however, the State Comptroller, who controls the pension fund, has claimed that the Governor's pension proposal is unconstitutional.

(-Continued)

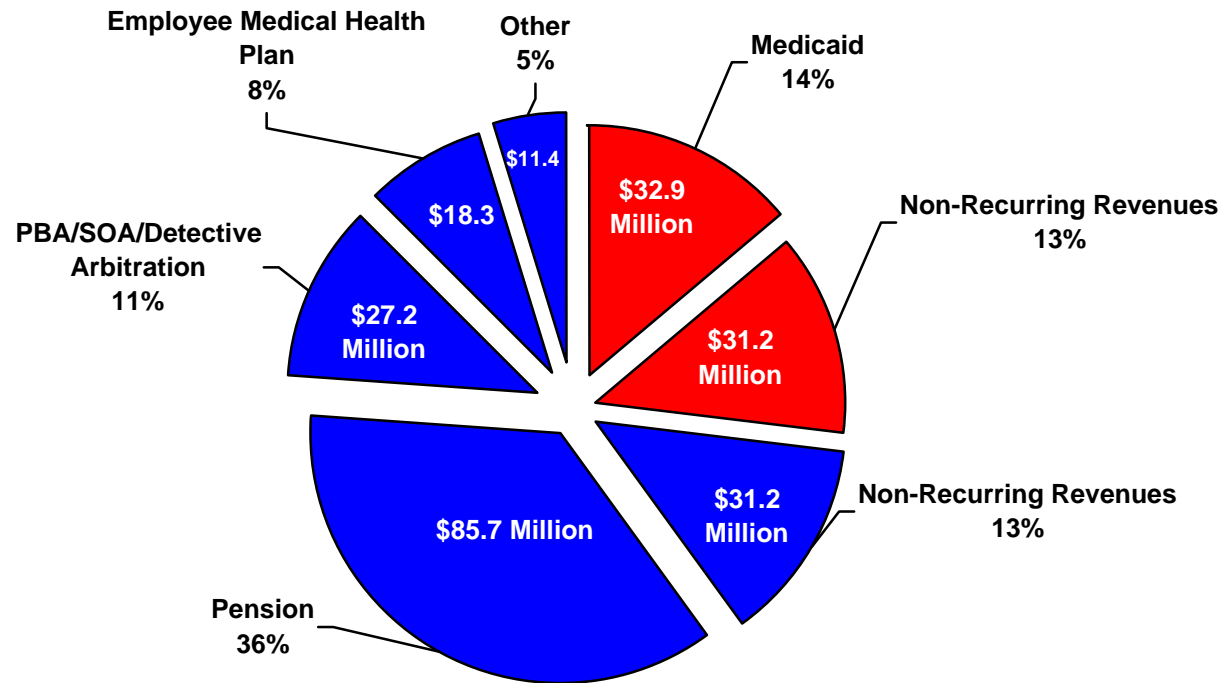
Suffolk County Projected 2005 Operating Budget Shortfall *All Funds - \$238 Million*



As of 2/18/2004

Suffolk County Projected 2005 Operating Budget Shortfall

All Funds - \$238 Million, Mandated vs. Discretionary



Color Key

MANDATED \$64.1 Million, 27% of Total

DISCRETIONARY \$173.9 Million, 73 % of Total

As of 2/18/2004

Appendix

2004-2005

Governor's Budget Analysis Overview

-Continued

As proposed, Governor Pataki's \$99.8 billion Executive Budget for state fiscal year 2004-05 offers counties a blend of spending cuts and other state aid reductions that he offsets with proposals to reduce Medicaid costs, defer pension payments, and increase revenues through new local option fees and taxes.

The Governor's budget would provide counties and New York City with a net benefit of approximately \$840 million. Counties around New York State would realize the net impact of \$8 million in Long Term Care Takeover, \$54 million in Medicaid containment costs, \$26 million in TANF funds, \$5 million of Article 6 state aid, \$22 million in Early Intervention, \$8 million cuts in aid to mental health and \$65 million in Public Safety costs.

While the overall plan claims to provide counties and New York City with \$840 million in net fiscal relief, a preliminary analysis of the Budget impact on Suffolk County (as seen in following chart) suggests that these savings are unattainable due to the severity of budget cuts and lack of significant Medicaid fiscal relief. Over a two year period, Suffolk County would lose a total of \$34,849,134 in state aid and revenue through the four week sales tax exemption on clothing, reductions in base aid to Suffolk Community College, decreases in aid to state funded programs for the elderly, health services cost containments, TANF and CHIPS reductions and the establishment of a block grant for detention costs.

The County would also realize revenue enhancements and expenditure reductions of \$40,075,000 due to the Medicaid long term takeover proposal, cost containment initiatives for Medicaid and social service programs, the creation of video lottery terminals, the repeal of Wicks Law and an insured vehicle surcharge. Overall, there would be a total net gain of \$15,154,524 in additional state revenue and cost avoidance in the 2004-2005 fiscal year.

Suffolk County urges the Legislature to give particular attention and consideration to the following areas of interest and concern while reviewing the proposed State Budget.

FINANCIAL ANALYSIS OF GOVERNOR'S PROPOSED BUDGET FOR 2004

NEGATIVE IMPACTS:	2004	2004	2005	2005
<u>BUDGET - REVENUE REDUCTIONS</u>		(\$7,400,000)		(\$14,500,000)
REPLACE THE PERMANENT CLOTHING AND FOOTWEAR EXEMPTION WITH FOUR (4) \$500 EXEMPTION WEEKS.	(\$7,400,000)		(\$14,500,000)	
<i>Note: 2 weeks in 2004, 4 weeks in 2005 Requires County Legislature to act if we opt out choice is all or nothing.</i>				
<u>COMMUNITY COLLEGE</u>		\$ -		\$ (1,850,000)
BASE AID	\$ -		\$ (1,850,000)	
<u>EXECUTIVE: PROGRAMS FOR THE AGING</u>		\$ (13,500)		\$ (13,500)
CSE/EISEP PROGRAM	\$ (13,500)		\$ (13,500)	
<u>HEALTH SERVICES</u>		\$ (2,000,000)		\$ (2,600,000)
1. ARTICLE 6 PUBLIC HEALTH AID	\$ (1,762,500)		\$ (2,350,000)	
2. COMMUNITY MENTAL HEALTH	\$ (200,000)		\$ (200,000)	
3. METHADONE MEDICAID RATE INCREASE	\$ (37,500)		\$ (50,000)	
<i>Note: Information on the Nursing Home is not clear, it appears that the increases and reductions will nullify each other.</i>				
<u>LABOR</u>		\$ (314,400)		\$ (314,400)
SUMMER TANF	\$ (314,400)		\$ (314,400)	
<u>PROBATION SERVICES</u>		\$ (248,929)		\$ (331,905)
1. COMMUNITY CORRECTION BLOCK GRANT				
<i>Note: if implimented, this probably would be a significant reduction in the level of reimbursement.</i>				
2. REDUCE ALTERNATIVE TO INCARCERATION AID	\$ (248,929)		\$ (331,905)	
<u>PUBLIC WORKS</u>		\$ (1,000,000)		\$ (1,000,000)
REDUCTION IN CHIPS REVENUES (CAPITAL)	\$ (1,000,000)		\$ (1,000,000)	
<u>SHERIFF</u>		\$ (112,500)		\$ (150,000)
REDUCTION IN REIMBURSEMENT FOR PAROLE VIOLATORS	\$ (112,500)		\$ (150,000)	
<u>SOCIAL SERVICES</u>		\$ (1,500,000)		\$ (1,500,000)
TITLE XX - TANF REDUCTION	\$ (1,500,000)		\$ (1,500,000)	
TOTAL: NEGATIVE IMPACTS	\$ (12,589,329)	\$ (12,589,329)	\$ (22,259,805)	\$ (22,259,805)

POSITIVE IMPACTS:

REVENUE ENHANCEMENTS / EXPENDITURE REDUCTIONS

BUDGET - REVENUE ENHANCEMENTS

		\$	2,925,000	\$	5,850,000
FIVE (\$5) SURCHARGE ON INSURED VEHICLES	\$	2,925,000	\$	5,850,000	
<i>note: six months in 2004</i>					

OFF TRACK BETTING - REVENUE ENHANCEMENT

2. OTB: VIDEO LOTTERY TERMINALS	\$	-	\$	-	
<i>note: if state wins all lawsuits, county gets early go ahead, you may receive some revenues in late '05 \$30,000,000 in 2006 if County receives go ahead.</i>					

PUBLIC WORKS- EXPENDITURE REDUCTIONS

REPEAL OF THE WICKS LAW
note: Significant Capital Savings - up to \$10m on jail costs based on debt schedule

SOCIAL SERVICES- EXPENDITURE REDUCTIONS

		\$	4,700,000	\$	26,600,000
STATE ASSUMPTION OF LONG TERM CARE COSTS	\$	-	\$	6,100,000	
LONG TERM GRANT REDUCTIONS	\$	100,000	\$	100,000	
FULL CASE SANCTIONS	\$	1,000,000	\$	500,000	
MEDICAID COST CONTAINMENTS	\$	3,600,000	\$	19,900,000	
<i>note: Some of these revenue's is in cost avoidance - i.e. restrictions on enrollments. Savings may be overally optimistic - more specific's are needed</i>					

TOTAL: POSITIVE IMPACTS	\$	7,625,000	\$	7,625,000	\$	32,450,000	\$	32,450,000
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TOTAL: GOVERNOR'S PROPOSED BUDGET	\$	(4,964,329)	\$	(4,964,329)	\$	10,190,195	\$	10,190,195
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Appendix

2004-2005

Governor's Budget

Analysis Narrative

Comprehensive Pension Reform

The Governor's Budget includes a proposal that provides comprehensive pension reform initiatives. According to the Governor's Article VII bill descriptions, the initiatives 1) address the need for more reasonable levels of increases to local government and State pension contributions; 2) offer additional fiscal relief to local governments through more flexible pension funding laws; 3) strengthens the State's retirement systems by imposing strict rules on funding new benefits; and 4) requires better reporting from the New York State and Local Retirement Systems.

Other sections of the bill authorize local governments to use employee benefit reserve funds to pay their pension obligations; give local governments an option to refinance outstanding payments to the Retirement System related to pension benefits for police officers and firefighters; and give local governments flexibility to pay their pension bills by January 15th instead of the current December 15th requirement.

Under the Governor's proposal, the State Comptroller is required to evaluate and consider the following options to mitigate the scheduled spike in contribution rates and improve the basis for retirement system funding: modify the accounting method used to recognize investment experience; lengthen the amortization period for recent benefit improvements; cap the amount pension contribution rates can increase in any given year; establish a reserve fund for minimum contributions; evaluate the minimum contributions requirement and use actual salary experience for billing purposes. In addition the final reform proposal requires better reporting in an effort to improve budget planning and financial disclosure by requiring the Comptroller to: disclose the funded status of the Retirement System on a basis that is comparable to other states; and publish multi-year projections of employer contribution rates.

The Comptroller will have to report on his determinations to the Governor and the Legislature by June 1, 2004. However, the Comptroller's office has already commented in a letter between the Deputy Comptroller and the Division of Budget that they believe that four of the proposals are unconstitutional and two, although not unconstitutional, would not be acceptable because of policy issues.

Suffolk County is in need of relief from the burden of escalating pension costs. The County supports any proposal that can provide prudent fiscal relief for localities without jeopardizing the solvency of the State pension fund.

Medicaid Restructure through Cost Containments

The Governor's budget would institute measures to contain overall Medicaid costs through the reduction of Medicaid services or the strengthening of Medicaid eligibility requirements. These cost containment initiatives would reduce both State and local costs. The proposed cost containment measures include:

Pharmacy Reductions:

- Create forge-proof prescriptions
- Establish a preferred drug program (excludes certain AIDS and mental health drugs)
- Reduce pharmacy reimbursement from the current AWP to AWP less 15% for brand name drugs and AWP less 30% for generic drugs
- Require prior approval of drugs that are excluded from nursing home rates
- Medicaid fee for service and Medicaid managed care recipients will be required to pay \$1.00 co-payments for generic and \$3.00 co-payments for name brand drugs

The Department of Social Services supports this proposal, but is unable to determine, based on information provided, the cost savings to Suffolk County.

Eliminate Certain Optional Services for Adults:

Eliminate adult dental, podiatry, and other practitioner services including nurses, audiologists and psychologists.

The Department of Social Services supports this proposal, and estimates the reduction in expenditures to be \$3,600,000 for 2004 and \$19,900,000 for 2005.

Hospitals

- Permanently establish .7% assessment on hospital gross receipts
- Federalize graduate medical education

Nursing Home

Restores a 6.0% nursing home assessment. The nursing home Assessment was scheduled to phase down from 5% in 2003-04 to 2.5% in 2004-05. **Suffolk County opposes this proposal as it would reduce revenue by \$20,000 in 2004 and \$40,000 in 2005.**

- Refinances capital debt for AIDS nursing facilities

Updates Wage Equalization Factor to 2001, with a hold harmless (This nursing home increase is contingent upon the following measures)
Eliminates the hospital based nursing home rate add-on
Phases out the rate add-on for nursing homes with more than 300 beds

Home Care

Reestablishes a 0.7% home care assessment,
Increases the home care savings targets from \$33 million to \$44 million.
The Department of Social Services is opposed to this proposal as it proposes to require Counties to cut home care costs by \$10 million or risk a \$500,000 penalty.

Family Health Plus

Imposes a co-payment on pharmaceuticals, doctor visits, and hospital stays
Establishes an asset/resource test for program eligibility
Eliminates dental & vision services from the plan
Requires a 12-month waiting period (extended from a 6-month period in current law) for individuals who previously had group health insurance coverage
Prohibits coverage of governmental employees and individuals working for businesses with more than 50 employees
Eliminates funding for facilitated enrollment
Provides \$1 million in grants to counties for FHP eligibility determinations
The Department of Social Services supports all of the Family Health Plus proposals, with the exception of eliminating funding for facilitated enrollments.

Child Health Plus

Transfers children ages 6 to 19 in families with incomes between 100 and 133 percent of the Federal Poverty Level from Medicaid to Child Health Plus
Reduces facilitated enrollment by \$3 million.

Optional Services

Eliminates private practitioner adult dental
Eliminates adult other practitioners, which includes nurses, audiologists, and psychologists
Eliminate podiatry as a billable clinic service

Video Lottery Terminals

The Governor's Budget authorizes the Lottery Division to award up to eight licenses for the operation of a video lottery franchise gaming facilities in New York State. The bill will generate additional education revenues, to be kept in an

account separate from the state lottery fund, known as the Sound Basic Education Account.

Revenue would be distributed as follows:

- 61% to education (per capita per school district),
- 10% to the NYS Lottery Division for administrative purposes and
- 29% to SCOTB for administrative and operating costs and payment to local governments.

Suffolk OTB supports this bill as it offers a major and unique opportunity to generate an additional \$15 million in revenue for 2004 and \$30 million in 2005 for education and local governments. Fiscal impact is based on the following assumptions:

- 1) The state adopts the Governors' proposal in its present format,
- 2) Suffolk OTB is given a franchise
- 3) All litigation is resolved in favor of the State
- 4) All litigation is resolved by the end of 2004
- 5) Suffolk OTB can get up and running within 6 months after being awarded a franchise
- 6) Suffolk County receives between 65-70% of 29% of profit generated by the Terminals. According to the Budget Office, Suffolk County could expect \$30,000,000 in revenues for 2006.

Suffolk OTB supports this bill as it offers a major and unique opportunity to generate additional revenue for education and local governments. According to the Budget Office, Suffolk County could expect \$30,000,000 in revenues for 2006.

Four Week Clothing Sales Tax Exemption

The Governor's Budget eliminates the permanent sales tax on clothing exemptions scheduled for June 2004 and replaces it with a series of four temporary exemption weeks at a \$500 threshold. The four clothing exemption weeks include: the last week of January, first week of April, mid July, and the first week of September. This program would become effective immediately and localities would have the option to participate. Localities would automatically be enrolled in the new exemption unless they enact local legislation to opt out by April 22, 2004 and March 1st in future years and would be required to give notice to the Commissioner of Taxation and Finance (certified copy of legislation) at least 40 days prior to June 1st. The New York State Department of Taxation and Finance has projected a statewide loss of \$278 million in revenue.

Assuming the Governor's exemption takes effect immediately, Suffolk County would realize a loss of \$7.4 million in FY 2004-2005 and a \$14.5 million in FY 2005-2006.

Enhanced Wireless 911

The Governor's Budget provides for funding and legislation to encourage intergovernmental cooperation for the statewide deployment of enhanced wireless 911 service and clarifies the costs that are eligible for funding or reimbursement. According to the Governor's Article VII bill description, the bill clarifies that costs are eligible for funding or reimbursement under the \$10 million Local Enhanced Wireless 911 program and the \$100 million Local Enhanced Wireless 911 Expedited Deployment Program.

The Suffolk County Police Department strongly supports this bill.

Medicaid State Assumption by NYS of Long Term Care Costs

The Governor has proposed the state to assume a higher percentage of the non-federal share of Medicaid long-term care expenditures over a ten-year period, commencing January 1, 2005. This long-term care takeover is contingent upon the enactment of a specific series of Medicaid related savings measures including:

1. Closing Long Term care eligibility loopholes
2. Reinstating nursing home and home care provider assessments
3. Increasing home care savings targets to counties
4. Refinancing capital debt for AIDS nursing facilities

NYSAC has confirmed that there would be a \$6.1 million cost savings to Suffolk County in 2005 and an \$87 million cost savings by 2013. The Suffolk County Department of Social Services supports this proposal, but feels that an overall cap on the local share of Medicaid would be a preferable alternative.

Vehicle Insurance Fee

The Governor's Budget includes a new provision, which would allow localities to impose a fee of up to \$5 on vehicle insurance policies to fund local public safety needs. According to the Governor's Article VII bill description, the bill will amend the Insurance Law to allow counties and New York City to impose an additional fee of up to \$5 on each insured motor vehicle. This additional fee is earmarked for the policing of the County's special parkways.

Localities throughout the State are facing serious fiscal problems. By allowing counties to impose this fee, additional revenue could be raised to insure that public safety at the local level will not be compromised.

Suffolk County supports the State giving Counties the option of considering this fee. The Budget Office has calculated that based on the number of registered vehicles (1,180,170) in 2001 this new fee will generate approximately \$2,925,000 this year and \$5,850,000 next year.

Administrative Cap Reduction

The Governor's Budget codifies a \$60 million cap to counties for administrative costs of public assistance programs (Medicaid, temporary Assistance and Food Stamps) that was initiated in 2003-2004. According to the New York State Association of Counties, this will result in a loss of \$19.1 million and \$40.8 million loss for Counties and New York City, respectively. The expected loss to Suffolk County will be \$2.5 million.

In 1990, the state imposed a cap on costs as a cost containment measure. Local District costs were based on 1989 expenses. Suffolk's allocation was set at \$12.2 million and remained at this level through 2002. Starting in 2003, the State reduced the administrative cap even further. In 2004, the cap was reduced to \$9.4 million. Administrative costs, however, have continued to increase due to State mandated programs and eligibility expansion in the Medicaid and Food Stamp programs and the additional administrative functions required under Welfare reform.

The Suffolk County Department of Social Services does not support the continued reduction in the administrative cap and has offered a 2004 State Legislative Agenda proposal to the contrary, to urge the State Legislature to eliminate the cap or provide for a cost of living increase.

Public Health Initiatives

This Governor's Budget enacts public health initiatives to

Eliminate low priority programs

1. Eliminates match for Alzheimer's disease prevention fund
2. Eliminates endoscopy study,
3. Eliminates reflex sympathetic dystrophy syndrome program
4. Eliminates Obesity prevent study,
5. Eliminates oversight of tattooing and body piercing centers
6. Eliminates durable medical equipment regulations
7. The bill allows for the financing of costs of the Physician Profiling Program from the Professional Medical Conduct Account.

Strengthen pharmacy fraud prevention

1. Establish a forge proof prescription program
2. Requires non-reproducible prescription blanks
3. Strengthen criminal penalties for possessing or falsifying prescriptions
4. Eliminates physician controlled substance fee

Achieve costs savings

Reduction in Article 6 funding--Reduces Article 6 Aid-The Governor has proposed a reduction in the reimbursement to counties for optional health services from 30-20%, gives counties flexibility to prioritize spending in this category. Optional services eligible for aid include, Dental Health, Home

Health, Radiation Inspection, Public Health Lab, Emergency Medical Services, Long Term health, early Intervention and Service Coordination costs, Migrant Services, and medical examiner costs would all be subject to this cut. Article VI Aid.

The Suffolk County Department of Health does not support this proposal and urges the Governor and the Legislature to restore the funding for these much needed services, as these services are truly core Health Department Services that the public requires and the aid should continue at least at current levels, if not increase to 40%, as was in past years. The services rendered under option net expenditures of \$23,500,000. Reimbursement is cut by 10% or 1/3. This proposal would reduce revenue by \$1,762,500 in 2004 and \$2,350,000 in 2005.

Achieve Cost Savings Continued-
Early Intervention (EI) Controls

-Third Party Reimbursement- Increase reimbursement of medical services by clarifying insurers cannot deny coverage for medical services normally covered and requiring the insurer to provide information to the municipality, prohibit refusal to pay based on EI services, prohibits coverage denial based on location of service, duration of the child condition or whether the provider is in the insured's network.

The Suffolk County Department of Health supports the effort to ease the process of access to third party health insurance. However, there would be no administrative relief to the County when the state aid is being proposed at 20% and no assurance of realized revenue. The County has collected over \$2 million even though there is a restriction in access based on individual child coverage.

-Authorizing counties to re-evaluate child every six month to determine if services are needed,

-Requires state approval for services more that 7 times per week, and county approval for more than 5 services per week,

-Assessment fees for families making at least 250 % of the FPL-Creates new section 2557-A to Public Health Law to impose an assessment fee on families that receive Early Intervention Services.

More information needed in order to determine if the revenue would offset the additional administrative expenses. The Suffolk County Department of Health would incur tremendous administrative costs related to this proposal and would be responsible for billing families

on a monthly basis and would determine exceptions. There would be no recourse for County if families did not pay.

-Give counties the option of using the rates established by the state or negotiating lower rates with providers-

The Suffolk County Department of Health supports this proposal. The County would be able to reduce the EI rates that were just increased 3%, costing the county \$1 million. The County would continue to receive 50% reimbursement even if we have lower than the states rates. Suffolk County EI rates are the highest in the state other than NYC. The ability to negotiate on rates could bring in a substantial savings for the County. This would be an opportunity for the County to start using paraprofessionals for children who receive extensive behavioral home programs at significantly lower rates.

-The Governor has proposed that all providers apply to the state for approval for EI services. A registration fee of \$275 per certified individuals and \$900 per licensed agency would be required with submittal of approval. Providers would also be required to submit a commitment from the County with application. This proposal attempts to strengthen oversight of providers.

The Suffolk County Department of Health does not support this proposal and suggests they continue to approve providers before the County considers contracting with the provider. This proposal would increase the County workload by having the County do all it has to do to credentialize the provider only to have them denied by the state. There is no mention of the local share or frequency of the re-approval process.

Facilitate access to new Medicare discount Card for low-income EPIC enrollees.

Suffolk County Community College

Reduction in Base Aid for FTE

The Governor's Budget reduces base aid for Full Time Equivalent (FTE) funding which will result in a loss of \$1,850,000 this year. Suffolk County Community College's actual FTE enrollment for 2002-2003 was 15,640. This year it is expected to grow to a projected enrollment of 16,109.

The College would like to see the Base State Aid per FTE restored to \$2,300. If the FTE Base State Aid is not raised, then the estimated loss would be

approximately \$1.85 million. This increase would require about a \$110 increase in full-time tuition and about a \$4 per credit increase for part-time students. The College opposes the reduction to base aid.

Reduction of Transfer of TANF Funds to Title XX

The largest change in the Governor's Budget is the proposed shifting of \$122 million in TANF funds from Title XX child welfare services to other 100% state funded programs. This change represents a 50% reduction in TANF transfer funds from 10% to 5%, and results in a \$64.4 million loss to localities--\$26.5 million loss to New York City and a \$38 million loss to Counties. Title XX is a federal revenue stream for children's services passed through New York State to Suffolk based on eligibility requirements.

The Suffolk County Department of Social Services does not support this proposal and the estimated loss of \$1.5 million in revenue from New York State. The passage of this legislation will further increase County costs since our expenditures have already exceed out 2004 allocation of state reimbursement for title XX by \$10.5 million.

Block Grant for Detention Costs

The Governor's Budget has proposed to establish a block grant for reimbursing institutional care in secure and non-secure detention facilities to discourage excessive lengths of stay. Grant allocations would be based on expenditure history. Other provisions include --use of unspent funds for preventative and alternative measures, reduction in time youth spends in detention after court order, a 50% reimbursement for capital expenditures, prohibits certification of additional detention capacity until March 2007 (except for health and safety reasons.)

The Suffolk County Department of Social Services and the Department of Probation oppose this legislation. State reimbursement for secure (DSS) and non-secure detention (Probation Department) costs is currently uncapped, with the State reimbursing 50% of the cost of care for both program types. If implemented, this would probably be a significant reduction in the level of reimbursement.

It also places a moratorium and prohibits certification of additional detention capacity until March 2007 (except for health and safety reasons).

The Suffolk County Department of Probation opposes this proposal. A moratorium would further limit detention by delaying expansion of capacity. At this point, the County is in the final planning stage of a new Juvenile Detention center. The Department urges the state to allow Suffolk County to be an exception to the moratorium based on extraordinary circumstances.

Mandate Relief

The Governor's Budget includes a provision to increase local government flexibility and removes long-standing, State imposed impediments to efficient government operation. According to the Governor's Article VII bill description, the bill requires arbitration panels to consider the financial ability of a locality to pay an award without increased taxation. This bill will make the award process more rational and cognizant of the burdens arbitration decisions can place on local property taxpayers.

Other sections of the bill repeal multiple bidding requirements, required under Wicks Law, for the State, municipalities, school districts and public authorities. This will give local governments the option of bidding separate contracts or awarding a single contract to a general contractor. The ability to choose the best option for each construction project will ensure that projects are constructed in the most cost-effective and timely manner possible.

In addition there are sections in the Governor's bill which will bring greater parity to the process under which legal claims against a public entity are resolved by: allowing judgment awards against local governments and the State to be offset by both past and future compensation from all collateral sources; establish a reasonable market-based method of calculating interest in court judgments; and conferring exclusive jurisdiction to the Court of Claims for certain public authority matters.

The Suffolk County Department of Public Works strongly supports the repeal of Wicks Law. It will allow the County greater flexibility when choosing contractors, produces cost savings and provides for more efficiencies within the department by not requiring the County to serve as general contractor for every project.

Suffolk County also strongly supports the provision in this bill that emphasizes the need to consider a municipality's ability-to-pay before assessing new mandates.

Welfare Grant/Employment Non Compliance (Full Care Sanction)

According to the Governor's Budget, a family would lose their entire welfare grant if the head of the household does not comply with work requirements. There would be a 2-month period to comply before the full sanction is implemented. The legislation is expected to reduce able-bodied long-term reliance on welfare and help the State meet federal rate requirements.

At present in Suffolk County, over 600 employable head of households choose to accept a partial pro-rata sanction rather than comply with employment rules. Some of these families may have other undisclosed sources of income and will still choose not to comply with work rules, and their cases will be closed. Others, under the threat of full case sanction, will comply with work rules and may eventually achieve self-sufficiency through employment.

The Suffolk County Department of Social Services and the Department of Labor support full case sanctions not only because it would reduce the Family Assistance (FA) caseload, it would also reduce county expenditures by \$1 million.

CHIPs & Marchiselli Funding

The Governor's Budget authorizes 2004-05 CHIPs and Marchiselli local capital highway assistance programs. State Highway Law requires annual authorization of both the CHIPs and Marchiselli funding levels.

The State is proposing a reduction in funding which will result in a \$1 million loss for the County in 2004 and again in 2005. The Department of Public Works opposes this reduction in funding and requests that funding be restored to the 2003-2004 level.

Division of Parole Reimbursement for County Jails

The Governor's Budget codifies the current practice utilized by the Division of Parole for reimbursing counties that house parole violators. This proposal clarifies when the Division of Parole is responsible for reimbursing local jails for housing a presumptively released, paroled, or conditionally released violator. Currently, the Division of Parole only reimburses local jails when a violator is held in the local jail on a parole warrant.

Currently the Sheriff's Department is getting reimbursed at a rate of \$34 per capita per day, as per a 1992 Governor's Executive Order. If the reimbursement rate stays at \$34 a day, then it will represent a loss for the County.

However, the current law states that the reimbursement rate is actually \$40 a day per capita, at which point that would mean a revenue increase for Suffolk County.

Suffolk County opposes the current reimbursement rate of \$34 a day, and requests instead that the rate of reimbursement be \$40 a day as is plainly stated in the law.

Extend & Reform Empire Zone Program

The Governor's Budget proposes a five-year extension to the Empire Zone Program, due to expire this year. New York State currently has 72 Empire Zones,

five of which are located in Suffolk County. This Empire Zone legislation seeks to strengthen existing statutory framework for the program, prevent certain abuses that have allowed businesses to secure State benefits without creating jobs, encourage local economic development planning, enhance program reporting and evaluation through an interagency reporting system to measure performance on job growth, investment and program implementation.

The Suffolk County Department of Economic Development needs further details in order to determine whether or not the Department supports this bill. The Department is aware of Empire Zone legislation that has been introduced by Assembly Majority Leader Sheldon Silver and is nervous that there will be a compromise between Governor Pataki's bill and Assemblyman Silver. Silver's bill would curtail the County's control over zones and place restrictions on non-contiguous zones. Suffolk County currently has 1280 acres of EZ, of which we have taken excess acreage and reallocated the zones throughout Suffolk into five non-contiguous sites-Gabreski, Riverhead (2) and Wyandanch.

Medicaid Restructure through Funding Changes

- Shifts the 53rd billing cycle from 2004-05 to 2005-06
- Closes long term care loopholes by eliminating statutory provisions that allow spouses to refuse to contribute any assets towards the costs of the health care services and strengthens other asset transfer provisions
- Continues the 2003-04 Overburden Aid Reduction
- Manage utilization of high cost specialty populations (data sharing)
- Pay Medicare part A premium for dual eligibles
- Podiatry not billable as a clinic visit
- Voluntary SSI managed care enrollment
- Enroll dual eligibles in managed care
- Default to Medicare policy for nutritional supplements
- Restructures public hospital upper payment limit

In total, the Governor estimates that the growth in local Medicaid expenses would be reduced by approximately \$180 million in 2004-05 if the complete cost containment and funding changes package were enacted including the Medicaid long term care takeover. This includes \$63.4 million for counties and \$117 million for New York City.

The Suffolk County Department of Social Services supports these proposals, with the exception of the continued reduction in the Overburden Aid, the lower cap on Home Care expenses, and the .6% assessment on Nursing Homes. The Department also urges the Legislature to continue funding for facilitated enrollment. The Department is unaware of the cost savings at this time.

Open Ended Funding for Child Welfare Services

The Governor's Budget proposes open ended funding at a reimbursement rate of 65% for child welfare services--preventive services, protective services, aftercare, independent living and adoption administration. Suffolk County received \$6.6 million in open-ended reimbursement funding in 2004.

The Suffolk County Department of Social Services supports this proposal, but is unable to quantify revenue enhancement figures at this time.

Step Down Amount of "Earned Income Disregard" for Public Assistance Recipients

The Governor's 2004-2005 Budget discourages long term reliance on welfare by phasing out the amount of an individuals earned income that may be ignored in determining welfare benefit eligibility as recipients remain on welfare over time. The bill retains the initial \$90 monthly disregard, and establishes an Earned Income Disregard of 50% less for a recipient on welfare for less than 2 years (EID recalculated every June), reduces EID to 25% for recipient on welfare for more than 2 and less than 5 years, and eliminates the EID discount for recipients on welfare for more than 5 years. The bill would take effect September 1, 2004.

As of December 2003, of the 629 employed Temporary Assistance recipients in Suffolk County, only 204 were employed full time (122 were Family Assistance and 82 Safety Net). A portion of the cases (particularly those cases over five years old for which the disregard would be completely eliminated) would no longer be eligible for benefits and program costs would be reduced. There is no impact on cases opened less than two years.

The Suffolk County Department of Social Services supports this proposal. It will provide increased incentive for achieving self-sufficiency and reinforce the concept that this assistance is temporary and that employment based incentives are also temporary.

Authorizes Local Revenue Sharing Program

The Governor's Budget permanently authorizes the State's revenue sharing program for local governments and sets funding for cities, towns and villages at the 2003-04 funding level. However, it eliminates funding for Counties, resulting in a \$2.2 million loss to funding the Department has been using to defray costs for Family Health Plus.

Foster Care Block Grant

The Governor has proposed maintaining the Foster Care Block Grant at the FY 2003-2004 rate of \$364.5 million. With block grant funding, the Suffolk County

Department of Social Services Division of Family and Children Services provide institutional foster care, foster care and adoption resource development. The Division also provides preventative services and programs, community based treatments and wrap around services, which provide alternatives to institutional placements.

Suffolk County receives \$9,175,957 from the State Foster Care Grant and exceeds that cap by \$11,000,000. There are currently:

1,354 Children in Foster Care

778 Children in Family Foster Care

576 Children in Institutionalized Foster Care

The Department urges the Legislature to increase in the Foster Care Block Grant allocation. Costs continue to rise by an average of \$4 million a year. Suffolk County exceeds the Foster Care Block Grant each year by \$11 million. Therefore, the State's continuation of the Block Grant at the same level will result in increased County costs.

Reduction in State Aid

The Governor's Budget reduces State Aid to Localities which will negatively impact the County's Probation programs. According to State Probation officials, the Governor's budget will reduce state aid by 5% which will affect three main programs in Suffolk County: regular probation (\$290,193), intensive supervision (\$27,357), and the alternative-to-incarceration program (\$14,355) for a total loss of \$331,905.

Suffolk County opposes this reduction in State aid to localities.

Summer Jobs for Temporary Assistance to Needy Families (TANF)

The Governor's Budget proposes a 40% or a \$10 million reduction in funding for this program (\$25 million to \$15 million). Summer TANF is a program that is funded with excess TANF funds left over from the Federal block grant to NYS. Because welfare roles dropped dramatically over the past five years money originally given to the state for direct benefits was not needed and was used to fund a variety of employment and training programs. SCDOL and SCDSS have been leaders in securing this excess funding for our clients which can be given out by formula or competitive process. The use of TANF to support a stand-alone summer program arose out of two issues-WIA youth programs no longer allowed such a program and the availability of this excess money.

Three years ago the first appropriation appeared as \$35 million and Suffolk received nearly \$1.2 million. The next year the money was reduced to \$25million and Suffolk got \$800,000. Last year there was no provision in the budget for Summer TANF, but a bi partisan effort and a ground swell of protest forced the Governor to put in \$25 million at the last moment. This year, \$15million is in the

budget which, if distributed to us by formula, should result in a 40% cut in funding meaning \$450-500,000. A corresponding reduction in summer work experience slots from 500 to 300 will be the end result. Most of the programs funded by excess TANF have disappeared as the direct expense for welfare rises with the poor economy. TANF is up for Federal reauthorization and the administration has requested level funding and imposed expensive mandates that may further reduce the ability of NYS to target some TANF funds for special programs.

The Suffolk County Department of Labor does not support this initiative and states that it will result in a loss of 200 summer jobs for economically disadvantaged youth, amounting to \$314,000 in 2004 and 2005. In 2003, this program provided 494 jobs.

Cut in Aid to Localities (Community Mental Health)

The Governor's Budget proposes a \$7.7 million cut statewide in Aid to localities for non-clinical programs, those mental health programs not covered by Medicaid.

The Suffolk County Department of Health does not support this proposal and asks for state aid restoration in the amount of \$200,000, so that essential non-clinical support programs are not reduced or eliminated.

Reduction in Funding to Prevention Programs

The Governor's Budget reflects a 5% reduction in funding to prevention programs—community based programs, ie: drug abuse prevention and education programs.

The Suffolk County Department of Health does not support this proposal and urges the Legislature to restore funding to prevention programs. These programs are fully funded by state aid and have no ability to increase revenues. Any reduction would have to be passed along to contract agencies and would result in a \$100,000 reduction in revenue.

Public Assistance Grant Reduction (Long Term)

The Governor's budget includes a proposal to enact a 10 % reduction on the non-shelter component of the welfare benefit for families that have been on assistance for more than 5 years, and a 10% reduction for single adults and married couples with no children for more than 1 year. (Monthly reductions equal \$30 for families and \$14 for singles).

The Suffolk County Department of Social Services supports this legislation, which imposes a penalty for long-term reliance on "temporary" public assistance and provides increased incentive for achieving self-sufficiency. Unfortunately, the caseload impact of a 10% reduction in non-shelter costs will be small. Both the family population on assistance over five years and the single population on

assistance over one year often have many barriers to self-sufficiency (substance abuse, lack of education, mental and physical problems, etc.). A 10% reduction in the non-shelter costs may, however, encourages some recipients to eventually seek self-sufficiency.

At present, Suffolk County has approximately 600 singles on welfare longer than 1 year and another 576 families on assistance longer than 5 years. The 10 percent reduction of non-shelter costs for long-term families and individuals in Suffolk County will result in approximately \$59 per month savings for family cases and \$23 per month savings for singles.

With public assistance levels reaching their highest expenditure in five years, Suffolk County would finally see an expenditure reduction of \$100,000 in both 2004 and 2005. The Suffolk County Department of Social Services supports this legislation.

Reimbursement Parity Among Methadone Maintenance Treatment Programs (MMTP)

The Governor's Budget re-establishes reimbursement parity among all Methadone Maintenance Treatment Programs (MMTP). Currently, Medicaid reimbursement to MMTP for non-hospital programs is \$102.93 per week and \$126.11 for hospital-sponsored programs. Equalizing the rate will ensure non-hospital programs receive inflationary trends commensurate with their hospital counterparts.

While the Department of Health support the Governor's proposal to increase the weekly rate from \$104 to \$117 because this will increase the Methadone Medicaid revenue by about \$200,000, they ask that there be no reduction of state aid. The Governor has proposed a state reduction in deficit financing to Methadone of an equivalent amount. The County already contributes to the funding of the Methadone Program and has received only a 3% Cost of Living Adjustment (COLA) in the last five years, even while expenses have increased due to inflation and contract salary increases. Since Medicaid is 25% county funding it will increase the overall cost to DSS Medicaid by at least \$37,500 in 2004 and \$50,000 in 2005.

John J. Foley Skilled Nursing Facility

The Governor has proposed to increase the provider assessment fee to 6% on non-Medicaid, Medicare based revenues with no elimination provision. PLEASE NOTE: Nursing Home information in the Governor's Budget is not clear. It increases fees while offering a hold harmless agreement to make Nursing Homes whole. It appears that increases and reductions will nullify each other.

The Suffolk County Department of Health does not support the reinstatement of the Nursing Home Provider Assessment fee, which would

reduce Suffolk County revenues by \$20,000 in 2004 and \$40,000 in 2005. The Suffolk County Department of Health advocates for elimination of the assessment. The provider assessment tax was actually scheduled to go to 2.5% April 1, 2004 from the current 5% and eliminated April 1, 2005.

Expanded In Home Services for the Elderly (EISEP)

The Governor's Budget eliminates \$528,030 (to \$24.9 million) in statewide funding for Expanded In Home Services for the Elderly (EISEP), a County program that provides case management and non-medical in home care and house keeping services to impaired senior citizens. The loss to Suffolk County is \$13,000. This dollar loss will result in a loss of 750 hours of home care for the frail elderly and negatively impact the Office for the Aging's ability to meet the needs of Suffolk's elderly.

The Suffolk County Office for the Aging does not support this decrease and urges the State Legislature to reject the Governor's proposal and restore funding to 2003/2004 levels-\$25,222,000.

Reduction In Cornell Cooperative Funding

The Governor's Budget has proposed a 5% cut in Cornell Cooperative 224 Funding, which is the source of New York State's funds for Cornell Cooperative Extension Associations throughout the state. The funds, which are formula driven, provide services for the agricultural industry, marine industry, family and consumer sciences and 4-H Youth Development.

Cornell Cooperative Extension does not support this \$11,000 cut in funding and would like to see complete restoration of 224 funding by the State Legislature.

Long Term Ombudsman

The Governor's Budget decreases Long Term Ombudsman Care Program funding by \$58,365 from the 2003-2004 funding level (\$804,400 to \$746,000) resulting in a \$3,000 annual loss in revenue to the County. The LTOCP Program, made up of state certified volunteers, works to preserve the rights and quality of life of the institutionalized elderly in 40 Nursing Homes and 28 of the 63 Adults Homes throughout the County.

The Suffolk County Office for the Aging does not support this decrease and urges the State Legislature to restore funding.

This funding is used at present to support several Family and Children's Services programs and has reduced the cost of those programs to the County. Prior to this funding stream, many of these programs were either unfunded or funded under Title XX, a funding stream that we exceed every year.

Permit "Aggregate Weight" Standard for Illegal Drug Evidence

The Governor's Budget proposes a bill which would allow more timely processing of forensic evidence and conform the New York State Penal Law to similar laws in other states by measuring controlled substances in terms of aggregate rather than pure weight in defining quantities for various drug offense levels.

According to the Governor's Article VII bill description, currently the NYS Penal Law contains sections that address controlled substances and specifies criminal offenses based on the weight of the drug. Whenever a pure weight standard is used it creates two burdensome obligations for forensic laboratories: the task to develop a scientifically valid method to quantify the drug; and the time consuming effort to perform a quantitative analysis to extract the pure drug from the substance submitted for testing. The Governor's bill proposes eliminating the pure weight standard and implements an aggregate weight standard alone.

The Suffolk County Health Department strongly supports this bill and states that it will greatly reduce paperwork and burdensome testing and will result in immediate increased efficiencies within the department.

Indigent Services Costs

The Governor's Budget changes the funding formula for a local assistance program that provides payments to counties for indigent legal services, increases fees and accelerates both reimbursement to the State and financial assistance to counties for costs associated with law guardian and assigned counsel expenses.

The Legal Aid Society and the County Attorney are opposed to this bill. They believe that the increase in fees, changes to the formula, distribution and administration will adversely impact the County. They recommend only supporting the aspect of the proposed legislation that accelerates payment to the County.

Make Quick Draw Permanent

The Governor's Budget would amend State Law to give the NYS Lottery Division the authority to operate Quick Draw permanently by deleting the automatic expiration date of May 31, 2004.

This extension ensures Quick Draw revenues indefinitely and encourages retailers to apply for licenses to sell the game without concern for stability. Over its lifespan, Quick Draw has generated 1.2 billion for education and \$240 million to Lottery retailers.

Given the expansion of night-time racing and the extended hours Suffolk County branches are open to provide this racing product to customers, the Suffolk County Regional Office of Off Track Betting supports this initiative. In 2003, SCOTB generated \$48,000 in revenues from Quick Draw sales and stands to bring in additional revenue if this legislation passes.

Remove 1995 Restrictions

The Governor's Budget proposes to remove the 1995 restrictions on hours of operation, food sales and minimum size of the premises imposed on Quick Draw. The rules have been unnecessary, difficult to enforce and have reduced revenue.

The Suffolk County Regional Office of Off Track Betting supports this bill.

Grand Jury Testimony by Affidavit

The Governor's Budget permits grand jury testimony by police officers to be provided by affidavit rather than requiring personal appearances. Law enforcement agencies expend significant public funds for officers to appear before grand jury proceedings, frequently on an overtime basis. Permitting sworn statements to be submitted instead, will generate significant savings in time and money for State and local law enforcement agencies.

The Suffolk County Police Department strongly supports this bill.

Costs of Probation Supervisor

The Governor's Budget authorizes the imposition of fees at local option to cover the costs of probation supervision. This legislation will allow the County to continue charging a fee for probation supervision services which currently generates \$250,000.

Suffolk County supports the State giving Counties the option of continuing this practice.

Owner Controlled Insurance on Construction Projects

The Governor's Budget has proposed a new bill which would authorize the use of owner-controlled insurance by State agencies, public authorities, and municipalities. This bill will permit State agencies and municipalities to use owner controlled insurance on single public construction projects exceeding \$50 million, and multiple construction projects exceeding \$100 million, generating savings on the insurance component of large capital construction projects.

The Suffolk County Department of Public Works and the Department of Insurance and Risk both fully support this proposal which they believe will save the County money on large projects such as the proposed addition to the Suffolk County Correctional Facility.

Child Welfare Enhancement

The Governor has proposed to invest \$1.9 million in innovative child welfare programs intended to improve the quality of services to children and families.

The Suffolk County Department of Social Services supports this proposal. Our allocation can be used to develop programs that may prevent children with health problems and developmental disabilities from going into foster care, thereby reducing our institutional foster care costs.

Reduced TANF Funding for PINS

The Governor's Budget decreased TANF funding for People in Need of Supervision (PINS) by \$1.05 million statewide.

The Suffolk County Department of Social Services needs additional information to estimate the significant revenue reduction caused by this proposal and to determine whether or not they support this bill.

Supplemental Security Income Inclusion in Welfare Eligibility Determination

Under the 2004-2005 Governor's Budget, Supplemental Security Income (SSI) will be included in determining eligibility for families on public assistance.

The Suffolk County Department of Social Services supports this proposal. Currently, household SSI benefits are not included in family grant eligibility determination. An undetermined number of cases will no longer qualify for benefits or have their grants reduced with the additional SSI income, resulting in some caseload reduction and associated cost savings.

2004 DEPARTMENT PROPOSALS

**Department Proposal
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Category	Description	Department	County Impact	Narrative Page Number
Structural Budgetary Shortfall	<u>Consider Pension Reform</u>	Budget	\$60,000,000.00	4-7
Structural Budgetary Shortfall	<u>Cap County Share of Medicaid at 2003 Level or Sales Tax Swap</u>	Social Services	\$45,084,684.00	8-21
Structural Budgetary Shortfall	<u>Reimburse Highway Patrol Costs</u>	Police Department	\$12,000,000.00	22-24
Structural Budgetary Shortfall	<u>Expand the Power of Suffolk County's Judicial Facilities Agency</u>	Budget	\$12,000,000.00	25-27
Cost Reduction	<u>Support Wicks Law Exemption for Proposed Addition to Correctional Facility</u>	Public Works	\$10,000,000.00	88
Revenue Enhancement	<u>Secure Financial Assistance for O & M Costs for Wastewater Treatment Systems</u>	Public Works	\$7,500,000.00	94
Revenue Enhancement	<u>Redevelop a NYS Construction Grants Program</u>	Public Works	\$6,500,000.00	95
Revenue Enhancement	<u>Eliminate the State Administrative Cap on Public Assistance</u>	Social Services	\$6,500,000.00	107
Revenue Enhancement	<u>Urge the State to Distribute the \$130 million TANF MOE Withholding</u>	Social Services	\$6,250,000.00	96
Revenue Enhancement	<u>Allow for a Cost of Living Adjustment of State Administrative Cap</u>	Social Services	\$4,360,000.00	106
Revenue Enhancement	<u>Increase Living Wage Reimbursement Rate</u>	Labor	\$4,000,000.00	97-99
Revenue Enhancement	<u>Support Additional Farmland Preservation Funding</u>	Cornell Cooperative Extension	\$3,000,000.00	108
Revenue Enhancement	<u>Increase Preschool Transportation Regional Rate Reimbursement</u>	Health	\$2,393,000.00	100

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Category	Description	Department	County Impact	Narrative Page Number
Revenue Enhancement	<u>Reinstate Payment for Inmates Serving D, E, and C Felony Sentence in the County Facility</u>	Sheriff	\$2,100,000.00	101
Revenue Enhancement	<u>Prevent the Continued Reduction in Overburden Aid</u>	Social Services	\$1,800,000.00	102-103
Revenue Enhancement	<u>Restore Sales Tax Compliance Grant</u>	Audit & Control	\$1,000,000.00	104
Revenue Enhancement	<u>Transfer of Service Road Maintenance to NYS and Request for Reimbursement</u>	Public Works	\$1,000,000.00	109
Revenue Enhancement	<u>Restore Full Funding to the Advantage After School Program</u>	Cornell Cooperative Extension	\$800,000.00	110
Revenue Enhancement	<u>Fully Fund Youth Development / Delinquency Prevention Program</u>	Youth Bureau	\$744,733.00	111-124
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Revenue Enhancement	<u>Expand Covered Expenses for Emergency Assistance to Needy Families</u>	Social Services	\$133,000.00	125
Cost Reduction	<u>Transfer Bridge Maintenance to Towns</u>	Public Works	\$125,000.00	93
Revenue Enhancement	<u>Urge Full Respite Program Funding</u>	Aging	\$62,000.00	105
Revenue Enhancement	<u>Restore Full 224 Funding for Cooperative Extension Associations</u>	Cornell Cooperative Extension	\$62,000.00	126
Revenue Enhancement	<u>Institute Increased Fees for Special Hauling Permits</u>	Public Works	\$51,800.00	127
Revenue Enhancement	<u>Remove Exemptions from Transportation Corporation Law</u>	Public Works	\$50,000.00	128
Revenue Enhancement	<u>Institute and Increase Fee for Subdivision Maps</u>	County Clerk	\$30,000.00	129

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Revenue Enhancement	<u>Institute an Increased Fee for Marital Separation Agreements</u>	County Clerk	\$29,000.00	130
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Management Reform	<u>Support System Support for Current Medicaid Programs</u>	Social Services		145
Management Reform	<u>Adopt Data Entry Standard for Land Transactions</u>	County Clerk		146
Management Reform	<u>Allow for Electronic Recording for Real Estate Recordings</u>	County Clerk		147
Management Reform	<u>Combine the Transfer Tax Form and the Equalization and Assessment Form for Form Simplification</u>	County Clerk		148
Management Reform	<u>Adopt a Standardization Form for all Land Documents Recorded with Clerk</u>	County Clerk		149
Management Reform	<u>Keep Numeric Index Based on Tax Map Number for Each Parcel</u>	County Clerk		150
Management Reform	<u>Streamline and Update the Freedom of Information Law</u>	Real Property		151
Management Reform	<u>Expedite Arrears Collection</u>	Social Services		152-153
Policy Change	<u>Support the Comprehensive Housing Production Preservation & Economic Stimulus Act</u>	Economic Development		154-186

**Department Proposal
Fiscal Index**

Category	Description	Department	County Impact	Narrative Page Number
Policy Change	<u>Create Downtown Revitalization Zone Investment Credit</u> <u>Create Downtown Revitalization Zone Jobs Credit</u> <u>Create Downtown Revitalization Zone Low Income Housing Credit</u>	Economic Development		187-197
Policy Change	<u>Support Additional Funding for Employer Assisted Housing Program</u>	Economic Development		198-199
Policy Change	<u>Support an Employer Sponsored Commuter Alternative Tax Credit</u>	Economic Development		200-201
Policy Change	<u>Support the LI Housing Workforce Incentive Program</u>	Economic Development		202-205
Policy Change	<u>Support the Creation of a Power for Jobs Initiative</u>	Economic Development		206
Policy Change	<u>Support Workforce Housing Sales and Mortgage Tax Waivers</u>	Economic Development		207
Policy Change	<u>Support EFC Financing Legislation</u>	Environment		208-211
Policy Change	<u>Oppose OB-GYN Immunity Bill</u>	Legislator Bishop		212-217
Policy Change	<u>Address Mandatory Arbitration</u>	Police		218
Policy Change	<u>Require Teachers and Bus Drivers to Undergo State Central Registry Clearance</u>	Social Services		219
Policy Change	<u>Institute an Abuse Registry for the Physical, Sexual, Psychological and Emotional abuse of Mentally and Physically Incapacitated Adults</u>	Aging		220
Policy Change	<u>Provide for the Regulation and Licensing of all Assisted Living Facilities</u>	Aging		221-240
Policy Change	<u>Support Third Party Notification for Health Insurance</u>	Aging		241-243
Policy Change	<u>Strengthen Felony DWI Penalties</u>	District Attorney		244
Policy Change	<u>Strengthen Felony Penalties for Endangering the Welfare of a Child</u>	District Attorney		245
Policy Change	<u>Expand Mandatory Reporting Laws to Include More Groups that Interact with Children</u>	District Attorney		246

**Department Proposal
Fiscal Index**

Category	Description	Department	County Impact	Narrative Page Number
Policy Change	<u>Extend the Statute of Limitations in Child Assault Cases</u>	District Attorney		247
Policy Change	<u>Support Energy Efficiency Standards Act of 2003</u>	Environment		248-253
Policy Change	<u>Support an Elected Board of Directors for LIPA</u>	Energy		254
Policy Change	<u>Support Increased PSC Review of LIPA</u>	Energy		255
Policy Change	<u>Support the appropriation of funds from the Brownfields Act of 2003</u>	Environment		256
Policy Change	<u>Support Environmental Protection Fund Funding at \$125 Million</u>	Environment		257
Policy Change	<u>Support the NYS Returnable Beverage Container Act</u>	Environment		258-267
Policy Change	<u>Support the Smart Growth for the New Century Act</u>	Environment		268-285
Policy Change	<u>Urge a \$250,000 Earmark of EPF Funds for the Peconic Estuary</u>	Environment		286
Policy Change	<u>Amend Vehicle and Traffic Law Re: Snow Plowed Handicapped Spaces</u>	Handicapped Services		287
Policy Change	<u>Allow Suffolk County Labor Department Direct Access to NYS Unemployment Insurance System and Wage Records</u>	Labor		288-289
Policy Change	<u>Transfer County Road Administration from Towns to County</u>	Public Works		290
Policy Change	<u>Define a Procedure for the Safe Placement of Abandoned Infants</u>	Social Services		291-296
Policy Change	<u>Change State Law to Allow Kinship Guardianship</u>	Social Services		297-299
Policy Change	<u>Support Legislation to Require Stronger Penalties Against a Defendant Convicted of a Sex Crime Against a Minor</u>	Youth Bureau		300-301
Suffolk Community College	<u>Restrict Out of County Tuition Reimbursement</u>	Suffolk Community College		303

**Department Proposal
Fiscal Index**

Category	Description	Department	County Impact	Narrative Page Number
Suffolk Community College	<u>Support an Increase to FTE funding for Suffolk County Community College</u>	Suffolk Community College		302
Suffolk Community College	<u>Urge State Aid for Suffolk County Community College Capital Projects</u>	Suffolk Community College		304
Suffolk Community College	<u>Urge Full State Funding for Workforce Development Programs at Suffolk County Community College</u>	Suffolk Community College		305

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Structural Budgetary Shortfall	<u>Pension Reform-</u> Request the Comptroller and the Governor to allow employers the opportunity to amortize retirement payment contributions over a period of time to avoid increases in excess of inflation. Request consideration of combination of options to address fluctuations in State Pension Fund.	Budget	\$60,000,000.00	4-7
Structural Budgetary Shortfall	<u>Medicaid Cap or Sales Tax Swap-</u> Enact the Local Taxpayer Relief Act of 2004 to cap the local share of Medicaid at 2003 levels or enact a 7/8 of 1% Sales Tax Swap for State Assumption of all Medicaid costs.	Social Services	\$45,084,684.00	8-21
Structural Budgetary Shortfall	<u>Highway Patrol Reimbursement-</u> Enact Legislation to provide state assistance to reimburse Suffolk County for its costs associated with patrolling the Long Island expressway and Sunrise highway.	Police Dept	\$12,000,000.00	22-24
Structural Budgetary Shortfall	<u>Judicial Facilities Agency-</u> Support State-enabling legislation to expand the powers of Suffolk's Judicial Facilities Agency to allow it to finance the construction of and own facilities other than the courts.	Budget	\$12,000,000.00	25-27
Cost Reduction	<u>Wick's Law Exemption for Proposed Addition to Correctional Facility-</u> Support the exemption from Wicks Law for the proposed addition to the Suffolk County Correctional Facility. Exempting Suffolk County from using several different contracts and instead allowing one general contractor for this project would increase efficiencies and save the County approximately \$10 million.	Public Works	\$10,000,000.00	88

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Cost Reduction	<u>Kendra's Law-</u> Amend Kendra's Law to give the State Office of Mental Health (OMH) the responsibility to reimburse localities for the expenses incurred by the implementation, operation, administration and supervision of the provisions of “Kendra’s Law”, thereby relieving Localities of the fiscal burden which has been created by the Legislature.	Health	\$570,270.00	89-92
Cost Reduction	<u>Bridge Maintenance Transfer-</u> Amend Highway Law to transfer maintenance of bridges on town roads to the towns.	Public Works	\$125,000.00	93
Revenue Enhancement	<u>Assistance to Wastewater Treatment Systems-</u> Request state DEC provide operation and maintenance assistance in the amount of 25% of eligible costs for municipal wastewater treatment facilities.	Public Works	\$7,500,000.00	94
Revenue Enhancement	<u>Redevelopment of a NYS Construction Grants Program-</u> Requests the redevelopment of a New York State Construction Grants Program to be used in conjunction with the State Revolving Fund System.	Public Works	\$6,500,000.00	95
Revenue Enhancement	<u>State Retention of TANF-</u> Include Language in 04/05 budgets to distribute the \$130 million TANF MOE withholding to the local districts. The state withheld \$130 million from the counties in anticipation of failing to meet TANF MOE.	Social Services	\$6,250,000.00	96
Revenue Enhancement	<u>Living Wage-</u> Support an increase in the reimbursement rate for Personal Care (home health care) under Medicaid to reflect the County's Living Wage legislation.	Labor	\$4,000,000.00	97-99

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Revenue Enhancement	<u>Preschool Transportation-</u> Support a regional rate reimbursement increase for preschool transportation. There has been no adjustment to this rate since 1997. Suffolk County seeks a regional rate increase.	Health	\$2,393,000.00	100
Revenue Enhancement	<u>D,E,C Felony Inmates-</u> Reinstate \$17 a day payment for inmates serving an A, D, E, and C felony sentence in the County Facility. The restoration of said funds would relieve the County of an undue burden and restore revenue, which would be in line with aforementioned previous years.	Sheriff	\$2,100,000.00	101
Revenue Enhancement	<u>Overburden Aid-</u> Delete amendment to the 03/04 NYS Budget that included language for a reduction of \$19.5 million in appropriations in the OMRDD budget, which limits overburden funding available to counties.	Social Services	\$1,800,000.00	102-103
Revenue Enhancement	<u>Sales Tax Compliance-</u> Restore \$375,000 annual New York State Department of Taxation and Finance Sales Tax Compliance Grant. Work performed by the Audit Division pursuant to the grant aided the State in recovering millions of dollars in sales tax revenue that may have otherwise been lost.	Audit & Control	\$1,000,000.00	104
Revenue Enhancement	<u>Respite Program-</u> Fund the Respite Program at \$1.5 million, which would include \$62,000 for Suffolk County's Respite Program.	Aging	\$62,000.00	105
Revenue Enhancement	<u>Cost of Living Adjustment of State Administrative Cap-</u> The Dept. requests a Cost of Living adjustment to reflect the Consumer Price Index. This COLA adjustment would result in \$4.36 million additional revenue for the County.	Social Services	\$4,360,000.00	106

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Revenue Enhancement	<u>Eliminate the State Administrative Cap on Public Assistance-</u> Eliminate the State Administrative Cap on Public assistance, medical assistance and food stamps.	Social Services	\$6,500,000.00	107
Revenue Enhancement	<u>Farmland Preservation Funding-</u> Support additional funding for the purchase of farmland developmental rights.	Cornell Cooperative Extension	\$3,000,000.00	108
Revenue Enhancement	<u>Transfer of Service Road Maintenance and Request for Reimbursement-</u> Preclude the transfer of maintenance of frontage, margin or service roads without the approval of the local municipality. Request reimbursement for cost of maintaining Sunrise Hwy and LIE service roads.	Public Works	\$1,000,000.00	109
Revenue Enhancement	<u>Advantage After School Program-</u> Restore full funding (1.5 million) to the Advantage After School Program, which gives vulnerable kids a safe and healthy environment after school.	Cornell Cooperative Extension	\$800,000.00	110
Revenue Enhancement	<u>Youth Development / Delinquency Prevention-</u> Amend adopted Assembly bill A.5023 (Same as S.3518-A amended Article 19-A, Section 420.1(a) of the Executive Law to include mandated funding for youth programs at a minimum rate of \$6.50 per youth up to a maximum rate of \$10.00 per youth.	Youth Bureau	\$744,733.00	111-124
Revenue Enhancement	<u>Emergency Assistance to Needy Families-</u> Amend State law to include late fees and legal fees to evict or foreclose as a reimbursable cost to prevent homelessness.	Social Services	\$133,000.00	125
Revenue Enhancement	<u>224 Funds-</u> Restore full funding (\$242,679) of 224 funds, which is the source of New York State's funds for Cooperative Extension Associations throughout the state.	Cornell Cooperative Extension	\$62,000.00	126

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Revenue Enhancement	<u>Special Hauling Permits-</u> Amend Vehicle and Traffic Law to increase maximum fee to \$100 for each special hauling permit and divisible load permit issued by Suffolk County.	Public Works	\$51,800.00	127
Revenue Enhancement	<u>Transportation Corporation Law-</u> Amend the Transportation Corporation Law to eliminate the exemption of telephone and telegraph corporations from acquiring permits and require them to pay fees for the permits.	Public Works	\$50,000.00	128
Revenue Enhancement	<u>Subdivision Maps-</u> Support an Increased fee for filing a subdivision map	Clerk	\$30,000.00	129
Revenue Enhancement	<u>Marital Separation-</u> Support an increased fee for filing marital separation agreement	Clerk	\$29,000.00	130
Revenue Enhancement	<u>DBA-</u> Urge state to allow county to charge a renewal fee for Doing Business as and have DBA's expire every ten years	Clerk	\$25,000.00	131
Revenue Enhancement	<u>Certificate of Abandonment-</u> Amend Property Law to increase the filing fee for COA, and eliminate the minimum requirements of 1/2 acre or two contiguous lots on a file map	Clerk	\$14,400.00	132
Revenue Enhancement	<u>Electronic Filing of Court Papers-</u> Urge NYS to require that all Supreme Court cases, including index number and complaint, are to be filed electronically	Clerk		133
Revenue Enhancement	<u>Standardization of Fees-</u> Urge state to initiate a \$125 statewide uniform filing fee for recording deeds and mortgages.	Clerk		134

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Management Reform	<u>Aquaculture Management Program-</u> Support Assemblyman Thiele's legislation to amend the Environmental Conservation law in relation to ceding underwater lands at Gardiner's and Peconic bays to Suffolk County for the purpose of establishing an Aquaculture Management Program for the Cultivation of Shellfish.	Planning		135-144
Management Reform	<u>System Support for Current Medicaid Programs-</u> Support legislation to guarantee adequate system support to local district for all current state Medicaid benefit programs including a web based system to streamline the eligibility process allowing electronic filing, screening and budgeting.	Social Services		145
Management Reform	<u>Data Entry Standard-</u> Adopt uniform standards for all land records throughout the state.	Clerk		146
Management Reform	<u>Electronic Recording-</u> Amend State legislation to allow for digital signatures for real estate recordings.	Clerk		147
Management Reform	<u>Form Simplification-</u> Combine the transfer tax form and the equalization and assessment form into one form	Clerk		148
Management Reform	<u>Form Standardization-</u> Urge the State to adopt a standardization form for all land documents to be recorded with clerk.	Clerk		149
Management Reform	<u>Numeric Index-</u> Amend 1951 Real Property Law to keep a numeric primary index for each parcel based on tax map number instead of alphabetically	Clerk		150

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Management Reform	<u>FOIL-</u> Amend the Public Officer's Law (Freedom of Information Law) to control the commercial use of its information and to charge a reasonable fee for its distribution. Establishes a new government cooperative with shared services which would result in savings for the County and more accessibility of documents.	Real Property		151
Management Reform	<u>Expedited Arrears Collection-</u> Amend State Law to require that all child support orders contain wording that allows the current order to automatically become an order on arrears unless the Court specifically directs otherwise. This change would convert the child support order to an arrears order without having to return to court.	Social Services		152-153
Policy Change	<u>Comprehensive Housing Production Preservation & Economic Stimulus Act-</u> Support state legislation S3435, A9268 which would establish new statewide housing rehabilitation, preservation, and improvement programs flexible enough to meet the needs of renters and homeowners.	Economic Development		154-186

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Policy Change	<p><u>Downtown Revitalization Zone Credits-</u> Support the Creation of the following Tax Credits</p> <p>Downtown Revitalization Zone Investment Tax Credit for projects that invest in downtown's to encourage redirection of development to existing downtown's (Investment in downtown's on purchase of buildings, rehabilitations, etc.)</p> <p>Downtown Revitalization Zone Jobs Credit for projects that increase employment in downtown districts, both by creating new businesses and expanding existing ones.</p> <p>Downtown Revitalization Zone Low Income Housing Credit for developers to encourage the construction and rehabilitation of low-income rent restricted housing in downtown's.</p>	Economic Development		187-197
Policy Change	<p><u>Employer Assisted Housing Program-</u> Support the appropriation of \$1 million to the County for the expansion of an innovative program that will assist local businesses with recruiting and retaining a professionals.</p>	Economic Development		198-199
Policy Change	<p><u>Employer Sponsored Commuter Alternative Tax Credit-</u> Support the creation of a corporate tax credit for qualified employer-based projects that promote employee participation in alternative-to-commuting programs to reduce traffic congestion.</p>	Economic Development		200-201

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Policy Change	<u>LI Housing Workforce Incentive Program-</u> Support S4899 Balboni/A8060 DiNapoli, which provides that when a local government approves the construction of five or more residential units through site plan or subdivision, that the developer provides that 10% of the total units will be affordable housing units.	Economic Development		202-205
Policy Change	<u>Power for Jobs Initiative-</u> Support the creation of a initiative to make low-cost power available to businesses located within central business districts through a Power for Jobs initiative.	Economic Development		206
Policy Change	<u>Workforce Housing-</u> Pursue legislation at the state level which would provide sales and mortgage tax waivers and mortgage recording tax waivers for developers who wish to build affordable housing.	Economic Development		207
Policy Change	<u>EFC Financing Legislation Request-</u> Support Legislation A4106 DiNapoli to amend the water pollution control revolving loan fund to allow municipalities that have watershed plans to use loans at 0% financing to purchase open space to protect watersheds.	Environment		208-211
Policy Change	<u>OB-GYN Immunity Bill-</u> Oppose A8922/S5365, OB-GYN Immunity Bill, a bill that shields physicians from liability for their malpractice.	Legislator Bishop		212-217
Policy Change	<u>Mandatory Arbitration-</u> Amend the "Taylor Law" to address the "ability-to-pay" criteria of a locality for mandatory arbitration in accordance with a bill passed (15-3) by the Suffolk Legislature in October, 2000.	Police		218

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Policy Change	<u>State Central Registry-</u> Amend Amend section 424-a of the Social Services Law to include school teachers and bus drivers in the requirements to undergo clearance, along with daycare workers, school age child care workers, foster parents and family daycare workers at the State Central Registry when they begin employment.	Social Services		219
Policy Change	<u>Abuse Registry-</u> Institute a mandatory reporting law for the physical abuse, sexual abuse, psychological and emotional abuse, neglect and financial exploitation of mentally and physically incapacitated adults.	Aging		220
Policy Change	<u>Assisted Living Facilities-</u> Amend New York State Public Health Law and provide for the regulation and licensing of all Assisted Living facilities by the New York State Department of Health with appropriate health and safety standards included for all Assisted Living residents.	Aging		221-240
Policy Change	<u>Third Party Notification for Health Insurance-</u> Support legislation that would require health insurance companies to allow senior citizens to designate a third party for notification purposes.	Aging		241-243
Policy Change	<u>DWI -</u> Support Legislation to require overcome a string of court decision and provide for enhanced penalties against those DWI operators who are the proximate cause of an accident resulting in injury or death.	District Attorney		244
Policy Change	<u>Felony EWC-</u> Amend state law to make it a felony instead of a misdemeanor to endanger the welfare of a child where the conduct involves sexual abuse or drunk driving coupled with an accident resulting in injury to the child.	District Attorney		245

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Policy Change	<u>Mandatory Reporting-</u> Amend state law to require mandatory reporters to report abuse by a broader range of groups who interact with children regularly, mandate referral to law enforcement instead of CPS.	District Attorney		246
Policy Change	<u>Statute of Limitations-</u> Extend the statute of limitations in child assault cases to 15 year (currently 5 years)	District Attorney		247
Policy Change	<u>Energy Efficiency Standards Act of 2003-</u> Support Passage of A8951-Appliance and Equipment Energy Efficiency Standards Act of 2003 to require the NYS Energy and Research Authority to establish state energy standards on a range of commercial and residential products.	Energy		248-253
Policy Change	<u>LI Power Authority Board-</u> Support increased citizen oversight of the Long Island Power Authority and state legislation necessary to reinstate a Long Island Power Authority Board, whose members would be elected from ratepayer districts as the LIPA statute originally required.	Energy		254
Policy Change	<u>PSC Review-</u> Support an amendment to the LIPA statute to require full Public Service Commission review, using evidentiary proceedings before electric rates are increased.	Energy		255
Policy Change	<u>Brownfields-</u> Urge the Governor and the Legislature to appropriate funds through the budget process from the Brownfields Act of 2003 to Counties for the purpose of remediating brownfield sites they have come to own.	Environment		256

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Policy Change	<u>Environmental Protection Fund-</u> Urge the State Legislature to follow through on the Governor's promise to appropriate \$125 million to the Environmental Protection fund through the 04-05 budget process for the purpose of preserving open space, protecting water quality and reducing pollution.	Environment		257
Policy Change	<u>NYS Returnable Beverage Container Act-</u> Support A-3922 DiNapoli-To expand the "Bottle Bill" to require a 5 cent deposit on all beverages with the exception of liquor, wine, infant formula and milk, and to provide for the return of unclaimed deposits on beverage containers to the State for deposit into the Solid Waste Account of the Environmental Protection Fund to Fund improvements on recycling programs.	Environment		258-267
Policy Change	<u>Smart Growth for the New Century Act-</u> Support State legislation S5483 LaValle/ A8652 DiNapoli which will provide for coordination and consistency among all levels of government based on "smart growth" principles. Makes funding available through the Smart Growth Revolving Loan Fund.	Environment		268-285
Policy Change	<u>Environmental Protection Fund - Peconic Estuary</u> Urge the State Legislature to earmark \$250,000 of the Environmental Protection Fund through the 04-05 budget process for the purpose of implementing the Peconic Estuary Program's Comprehensive Conservation and Management Plan.	Environment		286
Policy Change	<u>Vehicle and Traffic Law-</u> Amend Vehicle and Traffic Law to make the owner of a shopping facility responsible for not having snow plowed into the designated handicapped parking spaces and the access aisles next to them.	Handicapped Services		287

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Policy Change	<u>Unemployment Wage Records-</u> Amend Labor Law to allow Suffolk County Labor Department direct access to NYS unemployment insurance system and wage records.	Labor		288-289
Policy Change	<u>County Road Administration-</u> Revise State Law to transfer the authority of the Towns to the County to regulate speeds, parking and turn prohibitions on County roads.	Public Works		290
Policy Change	<u>Abandoned Infants-</u> Amend Social Service law and the Family Court Act to define a procedure for the safe placement of abandoned infants.	Social Services		291-296
Policy Change	<u>Kinship Guardianship-</u> Urge the passage of A5317-2003 to amend the Family Court Act to allow for kinship guardianship, which would place the child in the care of a relative, remove the child from the Foster care and the commissioner's oversight and dismiss the child from DSS care.	Social Services		297-299
Policy Change	<u>Sex Offenders-</u> Support adoption of S.4577/A.8892 (Flanagan/Eddington) to require a defendant convicted of a sex crime under Article 130 of the Penal Law against a minor less than 17 years of age shall serve not less than 11 months of any sentence.	Youth Bureau		300-301
Suffolk Community College	<u>FTE Funding-</u> Urge State to provide full aide support for full time students thereby recognizing increased enrollment.	Suffolk Community College		302
Suffolk Community College	<u>Out of County Tuition Reimbursement-</u> Support enabling legislation to restrict out of county tuition payments to those institutions that offer programs that Suffolk does not.	Suffolk Community College		303

Department Proposal Summary

Category	Description	Department	County Impact	Narrative Page Numbers
Suffolk Community College	<u>State Aid for Capital Projects-</u> Support State Aid for capital projects, including Science, Technology and general classroom building at Ammerman campus and a learning resource center at grant campus.	Suffolk Community College		304
Suffolk Community College	<u>Workforce Development-</u> Urge the State to work with SUNY the NYS Dept of Labor and Education Department to fully fund community college costs associated with Workforce Development.	Suffolk Community College		305

2004 DEPARTMENT PROPOSAL NARRATIVES

COST REDUCTION CATEGORY

COST REDUCTION CATEGORY

PUBLIC WORKS

Wicks Law Exemption for Proposed Addition to Correctional Facility

PROPOSAL

Amend General Municipal Law Section 101 to allow an exemption to Wicks Law for the proposed addition to the Suffolk County Correctional Facility. The exemption would afford Suffolk County immediate relief from having to use four separate contractors and would allow the use of a prime contractor. This would be especially helpful on a project of this magnitude.

JUSTIFICATION

Mandating the use of multiple contracts has been proven to increase costs by as much as 25-30%. Delays by one contractor impact the others. In addition, the law forces the County to act as General Contractor overseeing and coordinating the entire project which is unnecessary, time consuming, costs the County additional funds and increases susceptibility to lawsuits.

FISCAL IMPACT

If the County were granted an exemption for the building of the proposed addition to the Correctional Facility it would save the County an estimated \$10 million.

BACKGROUND & STATISTICS

Wicks Law, on the books since the 1920's, currently requires that for each building project valued at \$50,000 or more, the State, counties, and school districts must have at least four separate prime contracts: general construction; plumbing and gas piping; heating, ventilating and air conditioning; and electrical power and lighting.

LEGISLATIVE HISTORY

None.

COST REDUCTION CATEGORY

DEPARTMENT OF HEALTH

Kendra's Law

PROPOSAL

Amend Kendra's Law to redirect the State Office of Mental Health (OMH) with the responsibility to reimburse localities for the expenses incurred by the implementation, operation, administration and supervision of the provisions of "Kendra's Law", thereby relieving Localities of the fiscal burden which has been created by the Legislature.

JUSTIFICATION

Since the inception of Kendra's Law (MHL 9.60) in 1999, Suffolk County has had a total of 439 individuals referred to the AOT program, with 191 individuals issued Court-Ordered treatment, while an additional 182 Court Orders were extended. A total of 112 individuals were assigned AOT Diversion status and 18 Diversions were extended. There were also 56 individuals deemed not to be eligible based on set criteria, and 60 individuals who were otherwise found to be ineligible following their investigation and evaluation. There are currently 87 individuals who have Court Orders under AOT, 29 persons who are in an AOT Diversion status and 35 whose eligibility and clinical histories are in the process of being investigated.

In addition to the clinical, administrative and support staff who are directly assigned to the AOT program within the LGU, there are significant indirect costs incurred by Localities. The most notable include the time expended by the County Attorney in the preparation of Court-related materials necessary for the AOT Court Order and associated appearances before the Court. Considerable time is expended by the County and Local Police Departments in the transportation and supervision of persons with an AOT Order (or AOT Diversions) who are in need of hospitalization for stabilization when they are in violation of treatment mandates. There are increased Medicaid costs due to individuals in need of AOT having to be maintained on inpatient status to ensure their safety until the Court Order can be put in place. Also, there is an increased level of supervision required by other County entities to ensure their maintenance in the community, such as Adult and Child Protective Services through the Department of Social Services and Probation supervision.

In the current year, Suffolk County will assume approximately \$570,270 in unreimbursed costs to operate the AOT program. Of these dollars, \$372,049 applies to the direct costs of the AOT program within the Division of Community Mental Hygiene Services, \$138,960 within the Office of the County Attorney, and an estimated \$51,870 within the Suffolk County Police Department.

FISCAL IMPACT

Cumulatively, Suffolk County has expended approximately \$2,100,000 in unreimbursed costs since the inception of this program in 1999. If implemented, Suffolk County would receive \$570,270 in reimbursed costs from the State.

The Department of Health Services and Division of Community Mental Hygiene Services believes that this unfunded State-mandate should be underwritten by the New York State Office of Mental Health, as services to persons with Serious and Persistent Mental Illness who are non-compliant with treatment and have the potential for harm to themselves or others have traditionally been a mandate of the OMH. Accordingly, we believe that the costs associated with AOT should be borne by the State rather than the LGUs.

BACKGROUND & STATISTICS

Chapter 408 of the Laws of 1999 (a/k/a “Kendra’s Law”, MHL 9.60) created the Court-Ordered Assisted Outpatient Treatment program (AOT) under the auspices of the New York State Office of Mental Health. The purpose of this program is to ensure that individuals who are non-compliant with treatment receive case management and other clinical services so as to mitigate their potential to be of harm to themselves and others in their environment.

The responsibility for the establishment, operation and supervision of the AOT program was been assigned to the Director of Community Services (DCS) of each Local Governmental Unit (LGU). The DCS is, in turn, responsible to the local Program Coordinator of the NYS Office of Mental Health, for the operation of the AOT. In addition, the DCS is responsible to: provide assessment services to individuals identified by others as possibly needing AOT treatment; petition the Courts to obtain Orders placing individuals into the AOT where clinically indicated; plan and arrange for the provision and monitoring of AOT treatment services; and, to seeking renewal of AOT Orders from the Court and report non-compliance to the Court.

In many instances, the individual has not been the recipient of a core set of case management and/or clinic services that would be mandated should a Court Order be obtained. These persons are generally designated to be “AOT Diversions”, at which point the AOT program puts into place case management through a case manager or Assertive Community Treatment team in addition to other clinical or psychiatric rehabilitation services that may stabilize the individual and maintain compliance with treatment. All persons referred to the AOT program undergo an intensive investigation of their eligibility for the program that includes obtaining certified records of hospitalizations, clinical treatment in the community and histories of incarcerations and other legal system entanglements.

Although the responsibility for this program is mandated to the LGUs, virtually no State funding has been provided to the Localities for the personnel necessary for the development and implementation; operation; or ongoing administrative supervision of the program. It is important to note that the date of implementation of this Law was November 8, 1999.

LEGISLATIVE HISTORY

Although this proposal was submitted as part of the 2002 State Legislative Agenda, no legislative action has been taken to date.

Kendra's Law

New York's Assisted Outpatient Treatment Law

In August 1999, New York State enacted legislation that provides for assisted outpatient treatment (AOT) of certain mentally ill people who, in view of their treatment history and circumstances, are unlikely to survive safely in the community without supervision. This new law, set forth in Section 9.60 of Mental Hygiene Law, is commonly referred to as Kendra's Law.

"This legislation will help ensure that mentally ill persons who are prone to relapse adhere to the treatment programs they rely on to remain safe and stable members of their communities," said Governor George E. Pataki when he signed the bill into law.

"Although the vast majority of psychiatrically-disabled New Yorkers pose no threat and are leading productive and fulfilling lives, we simply cannot afford to ignore potentially violent patients who refuse treatment," the Governor said.

The law establishes a procedure for obtaining court orders for certain individuals to receive and accept outpatient treatment for their mental illness. The procedure involves a petitioning process whereby designated individuals can petition the court for AOT on behalf of an individual thought to be in need.

The petition leads to a hearing during which all evidence is presented to the court, including testimony from a physician who has examined the patient, and a prepared plan of treatment. The individual alleged to need treatment may also testify at the hearing, may present evidence and may cross examine witnesses. He or she has the right to legal representation through the process.

If the court determines that the person meets the criteria for AOT, an order is issued requiring the director of the AOT program to provide or arrange for those services which, as described in the written treatment plan, the court finds necessary.

The law also requires the Office of Mental Health to monitor and oversee all AOT programs.

The initial court order is for up to six months, and can be extended for successive periods of up to one year. The law also establishes a procedure for admission to an inpatient setting should the patient fail to comply with the court ordered treatment and be in need of hospitalization.

The new assisted outpatient legislation also addresses the need to ensure that mentally ill people moving from hospitals or correctional facilities to the community receive necessary psychiatric medications without interruption. Under the law, the Office of Mental Health will institute a statewide grant program to counties to enable them to provide persons discharged from psychiatric hospitals, state prisons or county jails with psychiatric medications they may need while they are applying for Medicaid. Grants may

be used to provide medications and such related services for whom the process of applying for Medicaid has commenced within one week after discharge or release.

The law also clarifies the ability of state psychiatric facilities to readmit "conditionally released" patients on an involuntary basis when these individuals relapse and require examination and/or rehospitalization.

In addition, the law also provides that clinical information on patients shall be available to mental health facilities throughout the state. It clarifies that OMH licensed or operated facilities may share confidential patient information without consent of the patient, but only information that is necessary in light of the reason for disclosure. Furthermore, upon prior approval of the Commissioner of OMH, general hospital emergency rooms are permitted to share patient information with other hospital emergency room services, as well as with hospitals licensed or operated by OMH. This sharing of information will provide accurate clinical histories for treating clinicians, resulting in better diagnoses and treatment.

COST REDUCTION CATEGORY

DEPARTMENT OF PUBLIC WORKS

Bridge Maintenance Transfer

PROPOSAL

Amend Highway Law, Article 9, Section 231.8 to change the last sentence to read, "Except for moveable bridges, all other bridges on Town roads shall be maintained by the Town in which such bridge is located." This amendment would transfer the responsibility for maintaining town bridges from the County back to the Towns.

JUSTIFICATION

State and Federal governments annually inspect municipal bridges. The inspection reports are then forwarded to the County Superintendent of Highways who is required to direct the local governments to implement the improvements. This section of the highway law makes the County responsible for all bridges built and/or maintained by the County on town roads which are over twenty-five feet in length. These bridges should be turned over to the towns for maintenance. The County's responsibility would be only for those bridges that span County operated roads.

FISCAL IMPACT

There are 25 bridges on town roads which cost the County approximately \$5,000 each to maintain. Transfer of the maintenance responsibility would mean a savings of \$125,000 for the County.

BACKGROUND & STATISTICS

Today, the highway and Public Works Department of the various towns have or have access to manpower, equipment and technology equal to that of the County. Therefore, there is no longer any justification for the County Highway Superintendent to be responsible for the maintenance of bridges which are located on town roads.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF PUBLIC WORKS

Assistance to Wastewater Treatment Systems

PROPOSAL

Request that the New York State Department of Environmental Conservation (NYS DEC) provide Operation and Maintenance (O & M) assistance in the amount of 25% of eligible costs for municipal wastewater treatment facilities consistent with its previous assistance program.

JUSTIFICATION

A survey of County and other local municipal facilities indicates that higher levels of treatment required, increased use of chemicals and the increasing age of systems have all increased operation and maintenance costs. Many of the NYS DEC mandates require these increased costs but are no longer subsidized by the State O & M program. The O & M assistance program would be dependent on acceptable O & M and insure that this incentive is the focus of proper operation and maintenance at the facilities. The amount of assistance is small in relationship to capital investment in these facilities.

The Association of Metropolitan Sewerage Agencies has conducted financial surveys and determined that user charges have increased nationally over two times the rate of inflation over the past five years. A tracking of Suffolk County costs has indicated that non-debt costs have increased by nearly 30%.

FISCAL IMPACT

The Suffolk County sewer districts annual O & M budget excluding debt service is approximately \$40 million. The eligible portion is estimated at 75% of this value, thus the 25% assistance from the State would result in revenue of \$7.5 million.

BACKGROUND & STATISTICS

Up until the 1990s the State DEC offered up to 1/3 reimbursement to municipalities. Costs are now higher, so the reimbursement is needed more than ever.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF PUBLIC WORKS

Redevelopment of a NYS Construction Grants Program

PROPOSAL

Suffolk County requests the redevelopment of a New York State Construction Grants Program to be used in conjunction with the State Revolving Fund System and modeled after that system but with reduced regulations.

JUSTIFICATION

The financial burden on wastewater treatment plant agencies and municipalities has increased dramatically in recent years. The continuing clean water of New York State waters requires both increased capital expenditures for new and rehabilitated infrastructures and the continued operation and maintenance of those facilities. The future needs for infrastructure improvements are estimated at \$16 billion for New York State alone. Many needed improvements are part of the proposed capital programs at a cost that local communities cannot afford to comply with. The pending regulation would increase the economic burden that exists, especially with smaller sewer districts. A redeveloped construction grants program would encourage municipalities to begin new programs for pollution, assist in completing existing programs and protect current investments.

FISCAL IMPACT

Water quality related projects of Suffolk County sewer districts are listed in the New York State Revolving Fund Intended Use Plan and are the subject of applications for CleanWater/Clean Air Bond Act funds. The total cost of these projects over time are \$170 million. With 85% funding for eligible costs the savings to the County could exceed \$140 million over time. For 2004 the savings are estimated at \$6.5 million.

BACKGROUND & STATISTICS

The Clean Water Act of 1972 provided 75% federal funding for municipal construction costs to reduce water pollution. New York State and local municipalities provided matching costs 12 ½% each, to finance the remaining projects costs. The New York State Clean Water/Clean Air Bond Act and the State Revolving Fund have replaced this construction grant program. The Bond Act provided \$790 million within New York State that represents 5% of the needs of the next 20 years. With the useful life of the facilities nearing their end and the project number of new facilities required statewide, additional funding is necessary to maintain water quality.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF SOCIAL SERVICES

State Retention of TANF

PROPOSAL

Include Language in SFY 2004-2005 budget to distribute the \$130 million TANF MOE withholding to the local districts.

JUSTIFICATION

The state wrongfully withheld the \$130 million from the counties in anticipation of failing to meet the TANF MOE which was in fact met, but the state refuses to distribute the funds. It is unfair to the counties for the state to retain these funds that belong to the local districts.

FISCAL IMPACT

This proposal, if enacted, would have a positive fiscal impact on the county, producing approximately \$6,250,000 in revenues to Suffolk County.

BACKGROUND & STATISTICS

Under the Aid to Dependent Children program, there was no block grant and there was no MOE. The federal Personal Responsibility and Work Opportunity reconciliation Act of 1996 (PRWORA) created the TANF Block Grant and the MOE requirement. The Congress and the president agreed to set a Maintenance of Effort requirement (MOE) to ensure that State did not reduce their fiscal commitment to supporting needy families. The TANF MOE is the federal Maintenance of Effort requirement that states spend 75% of their historic level of spending based on Federal Fiscal year 1994. The MOE was calculated using statewide expenditures for the following public assistance programs: ADC, EAF, ADC related childcare, transitional childcare, at risk childcare and JOBS. All MOE funds must be spent on TANF eligible families.

If the State does not meet its MOE, the TANF Grant would be reduced one dollar for every dollar by which the state failed to meet its MOE in the prior year and reduced the entire value of the Welfare to Work formula grant. Because of dramatic caseload reductions, NYS was concerned that there was a risk of not meeting its MOE. In anticipation of a MOE related reduction in federal TANF funding, the state reduced the advanced payments made to counties for the Federal share of TANF funds. As it turns out, NYS submitted more than enough claims to cover the TANF MOE. The state held on to the amount due to counties to maintain a cushion in case the federal government did not approve all of the claims pending the results of the State's single audit process. In the budget bills for 2003-04, the Governor and legislature included new language to enable the state to retain \$130 million in TANF funds due to counties that were withheld in anticipation of not meeting the MOE.

LEGISLATIVE HISTORY

There has been no legislative action taken on this issue to date.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF LABOR

Living Wage Reimbursement

PROPOSAL

Support an increase in the reimbursement rate for Personal Care Service (home health care) under Medicaid to reflect the County's Living Wage legislation.

JUSTIFICATION

Every year, the New York State Department of Health sets the Personal Care Service (PCS) rates for the County's 24-hour personal care providers based on expenses from two years earlier. The Personal Care Service Program provides home care to about 1,200 elderly or Medicaid recipients at any given time, affording those individuals that receive service a better quality of life. The current average rate is \$15.45 per hour for our providers. The Living Wage would raise this aide rate by \$3.00, but if the PCS state reimbursement rate remains fixed, the implementation of Living Wage would cut the providers administrative reimbursement component in half. A rate increase has only become an issue now because of first time contract renewals since the inception of the Living Wage legislation.

If the state does not allow for a Living Wage increase in the reimbursement rate, the Living wage requirements on the PCS program will be costly, disruptive and damage the ability of the provider to do business. There County has concerns that if the state does not allow for a Living Wage increase in the reimbursement rate, that current providers will leave the program rather than absorb the cost of a wage increase, that rates and program costs will increase, that there will be service interruptions to clients and that the County may be forced to make up the difference.

FISCAL IMPACT

If the State does not allow for a Living Wage increase, the cost to the County would be \$4 million.

BACKGROUND & STATISTICS

The Personal Care Services program currently services about 30,000 hours per week, 560,000 hours per year and an increase of \$4.46 per hour would equal a \$6,957,600 in additional costs annually.

LEGISLATIVE HISTORY

In June of 2001, Suffolk County passed Living Wage Legislation. In doing so, many questions were raised regarding the need for a State reimbursement rate increase for personal care services. State Legislation was introduced to address this concern by County Executive Steve Levy, an Assemblyman at the time. The bill, now A4172 (Gottfried) is currently before the Health Committee.

2003-2004 Regular Sessions

I N A S S E M B L Y

February 12, 2003

Introduced by M. of A. LEVY, GOTTFRIED, ORTIZ, GALEF, GREENE, NOLAN, CLARK, PAULIN, ENGLEBRIGHT, EDDINGTON -- Multi-Sponsored by -- M. of A. AUBRY, BRENNAN, CAHILL, CARROZZA, A. COHEN, COLTON, COOK, CYMBROWITZ, L. DIAZ, DiNAPOLI, DINOWITZ, FARRELL, GORDON, GREEN, GROMACK, JACOBS, KAUFMAN, KOON, LAFAYETTE, LAVELLE, NORMAN, PERRY, PHEFFER, J. RIVERA, P. RIVERA, ROBINSON, SEDDIO, SWEENEY, TOCCI, WEISENBERG, WRIGHT -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law and chapter 1 of the laws of 2002, amending the public health law, the social services law and the tax law relating to the Health Care Reform Act of 2000, in relation to the living wage adjustment of personal care service workers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The social services law is amended by adding a new section 367-s to read as follows:

S 367-S. PERSONAL CARE SERVICES WORKERS; LIVING WAGE ADJUSTMENT. 1.
THE COMMISSIONER OF HEALTH SHALL, SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, ADJUST PERSONAL CARE SERVICES MEDICAL ASSISTANCE RATES OF PAYMENT ESTABLISHED PURSUANT TO THIS TITLE FOR PERSONAL
7 CARE SERVICES PROVIDERS LOCATED IN LOCAL SOCIAL SERVICES DISTRICTS WHERE
8 SUCH SOCIAL SERVICES DISTRICTS ARE LOCATED WITHIN A COUNTY WHICH HAS
9 ENACTED A LOCAL LIVING WAGE LAW THAT APPLIES TO SUCH SERVICES OR ARE
10 LOCATED WITHIN A CITY WITH A POPULATION OF OVER ONE MILLION PERSONS
11 WHICH HAS ENACTED A LOCAL LIVING WAGE LAW THAT APPLIES TO SUCH SERVICES.
12 ADJUSTMENTS SHALL BE MADE IN ACCORDANCE WITH SUBDIVISIONS TWO AND THREE
13 OF THIS SECTION.
14 2. ADJUSTMENTS TO RATES OF PAYMENT UNDER THIS SECTION SHALL BE ALLO-
15 CATED BASED ON THE DIFFERENCE BETWEEN THE RATE OF HOURLY PAYMENT FOR
16 PERSONAL CARE SERVICES WORKERS PRIOR TO AN ADJUSTMENT AND THE RATE OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD03496-03-3

A. 4172--A

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1 HOURLY PAYMENT THAT WOULD BE REQUIRED TO COMPLY WITH THE LOCAL LIVING
2 WAGE LAW.
3 3. ADJUSTMENTS UNDER THIS SECTION, UPON APPLICATION BY A LOCAL SOCIAL
4 SERVICES DISTRICT, SHALL BE SUBJECT TO SUBSEQUENT ADJUSTMENT OR RECON-
5 CILIATION FOR PURPOSES OF MAINTAINING COMPLIANCE WITH A LOCAL LIVING
6 WAGE LAW.
7 4. PERSONAL CARE SERVICES PROVIDERS THAT HAVE THEIR RATES ADJUSTED

8 UNDER THIS SECTION SHALL USE THE INCREASED FUNDS FOR THE PURPOSE OF
9 PAYING A STATUTORILY-MANDATED LIVING WAGE TO NON-SUPERVISORY PERSONAL
10 CARE SERVICES WORKERS ONLY AND SHALL NOT USE THE FUNDS FOR ANY OTHER
11 PURPOSE. EACH SUCH PERSONAL CARE SERVICES PROVIDER SHALL SUBMIT, AT A
12 TIME AND IN A MANNER TO BE DETERMINED BY THE COMMISSIONER OF HEALTH, A
13 WRITTEN CERTIFICATION ATTESTING THAT SUCH FUNDS WILL BE USED SOLELY FOR
14 THE PURPOSE OF PAYING A STATUTORILY-MANDATED LIVING WAGE IN ACCORDANCE
15 WITH A LOCAL LAW TO NON-SUPERVISORY PERSONAL CARE SERVICES WORKERS. THE
16 COMMISSIONER OF HEALTH IS AUTHORIZED TO AUDIT EACH SUCH PROVIDER TO
17 ENSURE COMPLIANCE WITH THIS SUBDIVISION AND SHALL RECOUP ANY FUNDS
18 DETERMINED TO HAVE BEEN USED FOR PURPOSES OTHER THAN PAYING A STATUTORI-
19 LY-MANDATED LIVING WAGE TO NON-SUPERVISORY PERSONAL CARE SERVICES WORK-
20 ERS. SUCH RECOUPMENT SHALL BE IN ADDITION TO ANY OTHER PENALTIES
21 PROVIDED BY LAW.

22 5. FOR SOCIAL SERVICES DISTRICTS WHICH INCLUDE A CITY WITH A POPU-
23 LATION OF OVER ONE MILLION PERSONS ADJUSTMENTS UNDER THIS SECTION SHALL
24 BE MADE PURSUANT TO MEMORANDUM OF UNDERSTANDING ENTERED INTO BETWEEN THE
25 STATE OF NEW YORK AND THE LOCAL SOCIAL SERVICES DISTRICT.

26 6. ADJUSTMENTS UNDER THIS SECTION SHALL BE EFFECTIVE FOR PERIODS ON
27 AND AFTER THE EFFECTIVE DATE OF A LOCAL LIVING WAGE LAW.

28 7. FOR THE PURPOSES OF THIS SECTION, "LOCAL LIVING WAGE LAW" MEANS ANY
29 LOCAL LAW OR, WHEN AUTHORIZED, LOCAL RESOLUTION THAT REQUIRES A COUNTY
30 OR UNIT OF LOCAL GOVERNMENT TO INCLUDE IN ANY CONTRACT FOR SERVICES A
31 SPECIFIED MINIMUM HOURLY RATE OF PAYMENT COMMONLY KNOWN AS A LIVING
32 WAGE.

33 S 2. Section 4 of part A of chapter 1 of the laws of 2002, amending
34 the public health law, the social services law and the tax law relating
35 to the Health Care Reform Act of 2000, as amended by section 27 of part
36 J of chapter 82 of the laws of 2002, is amended to read as follows:

37 S 4. Notwithstanding any law, rule or regulation to the contrary, the
38 provisions of section 36 of chapter 433 of the laws of 1997, as amended,
39 shall have no force or effect with regard to Medicaid funds received by
40 providers of personal care services pursuant to {section} SECTIONS 367-q
41 OR 367-S of the social services law or pursuant to paragraph (bb) of
42 subdivision 1 of section 2807-v of the public health law, or by provid-
43 ers of home care services pursuant to subdivision 8 of section 3614 of
44 the public health law.

45 S 3. This act shall take effect immediately.

REVENUE ENHANCEMENT

DEPARTMENT OF HEALTH

Pre School Transportation

PROPOSAL:

Suffolk County seeks a regional rate increase to reduce our increasing deficit.

JUSTIFICATION:

In accordance with Education Law, effective September 23, 1997 the "base year regional average per trip rate will be trended forward by the regional growth factor, which shall have been approved by the Director of the Division of the Budget, for the purposes of establishing tuition rates as described in Section 200.9 (f)(2)(vi)(b) of this Part." Although it is reported that the PSRU (Rate Setting Unit) of the State Education Department has revised the rates, these rates have not been certified by the State Division of the Budget. Communication with State Education on September 18, 2002 revealed that they are not anticipating a change in transportation rates.

In 2003, Suffolk County exceeded the cap by \$3.8 million. This is a \$2.3 million loss to Suffolk County. Also, the new contracts and RFP process increased costs by an additional 20-25%.

FISCAL IMPACT

This proposal would have a positive impact on Suffolk County, with additional revenue equaling \$2,393,000 in 2004-2005 and \$5,020,000 if rates were trended forward retroactively to 1997.

BACKGROUND & STATISTICS

In accordance with Mandated 4410 Preschool Special Education Program, Suffolk County transports over 3,000 children each year to preschool facilities and services. Section 4410 (10) and (13) of the Education Law and Section 200.9 (f)(4) of the Commissioner's Regulations, State Education Department, calculates a regional maximum trip rate for the transportation of these preschool students with disabilities. This rate was calculated for the 1997-1998 school year utilizing cost data from the three prior school years, dating as far back as 1993-94. There has been no adjustment to this rate since 1997, however, our expenditures have increased in Suffolk Co. causing a deficit over the last four school years.

LEGISLATIVE HISTORY

Although this proposal was submitted as part of the 2003 State Legislative Agenda, no legislative action has been taken to date.

REVENUE ENHANCEMENT CATEGORY

OFFICE OF THE SHERIFF

D, C, E Felony Inmates

PROPOSAL

Reinstate a \$17 a day payment for inmates serving an D, E, and C felony sentence in the County Facility.

JUSTIFICATION

This proposal would relieve the County of an undue burden and restore revenues, which would be in line with aforementioned previous years. Currently, when a judge sentences an inmate on a D, C, E felony, he can sentence him to County or upstate time. If he is sentencing him or her to County time, the State was paying \$17.00 a day for each inmate housed. In 1995 and 1996, \$2.2 million of revenue was generated each year and \$2.4 million for 1997 and 1998. In 1999, the State ended the proposal.

FISCAL IMPACT

This proposal would have a positive impact on Suffolk County, bringing in an additional \$2.1 million annually and \$10.5 million in revenues if adjusted retroactively.

LEGISLATIVE HISTORY

Although this proposal was included in the 2003 State Legislative Agenda, no legislative action has been taken to date.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF SOCIAL SERVICES

Restoration of Full Overburden Aid for the Mentally Disabled

PROPOSAL

Restore full Overburden reimbursements in the amount of \$19.5 million to the State 2004-2005 budget and delete the following amendment to the 03/04 NYS Budget that included language for a reduction in appropriations in the OMRDD budget, which limits overburden funding available to counties:

Notwithstanding the provisions of paragraph (h) of subdivision 1 of section 368-a of the social services law, total payments made to districts pursuant to such paragraph (h) for medical assistance for individuals with mental disabilities who are eligible under section 366 of the social services law during the period January 1, 2004 through March 31, 2004 shall be reduced by \$19.5 million. Such reductions shall be distributed to districts proportional to each districts share of aid pursuant to such paragraph (h) provided in the 2003 calendar year. Provided, however, that nothing in this section shall prohibit the office of mental health, in consultation with the department of health, and subject to the approval of the division of the budget, from expending funds to pay the local share of medical assistance, or a portion thereof, when such expenditures are for services that were funded by the state in calendar 2002, and to the extent such expenditures will be offset by the receipt of financial participation.

JUSTIFICATION

Restore full funding of Overburden aid in order to provide fiscal relief to Suffolk County.

FISCAL IMPACT

In 2003-2004, Suffolk County lost a total of \$1,604,274 in Overburden Aid. In 2005, the County will lose an estimated \$1.8 million in State aid.

BACKGROUND & STATISTICS

Beginning in 1974, the state moved toward providing counties with reimbursement for person with mental disabilities when both Social Services and Mental Hygiene laws were amended to reduce the increased financial burden on counties which resulted from the de-institutionalized of individuals from mental health facilities. Reimbursement for the local share of Medicaid was provided to counties for costs associated with individuals who have been institutionalized for five continuous years before discharge. This was called "overburden" aid.

In 1982, responding to the fact that fewer persons were meeting the requirement of five years continuous institutionalization, Section 54 of State Finance law was amended so that "... counties should be relieved of a portion of their fiscal overburden..." for persons

with mental disabilities. Fiscal relief was necessary because of the “...inordinate growth in the cost of providing medical assistance to certain persons within the state.” These new amendments did not require persons with mental disabilities to have been institutionalized.

The amendments gave the Commissioners of Social Services, Office of Mental Health and Office of Mental Retardation and Developmental Disabilities the authority to determine who qualify as “mentally disabled.” By current definition, any individual who is eligible for Medicaid under federal guidelines is considered a member of the population for whom counties will receive overburden reimbursement if the individual:

- a) Resides in a certified Residential Treatment Facility, Intermediate Care Facility, Community residence (IRA) or school certified by OMH or OMRDD
- b) Is a chronic client of a certified community based facility; more specifically, chronic clients are defined as individuals who have received at least 45 day (or partial days of continuing day treatment in any calendar quarter.)
- c) Was discharged from a Development Center or Psychiatric Center from April 1971 through December 1982 with 90 inpatient treatment days, these “90 day clients” are a static population.

Initially, reimbursement to counties was based on a formula that included several factors such as total local medical assistance costs and total costs for assistance for persons with mental disabilities. The formula was not individual based –specific. The initial reimbursement formula in the 1982 law was replaced in 1984 by a formula that provides 100 percent state reimbursement of the non-federal share of all Medicaid expenses for Overburden eligible individuals.

Medicaid payments to providers are processed by the State through the Medicaid Management Information System. The State then recoups the local share from the counties, which is 25% for the most expenses and 10% for the long-term care costs. The local share requirement for Medicaid is included in county social services budget. Overburden aid reimburses the counties for their local share of the expense associated with person who qualify as Overburden eligible.

LEGISLATIVE HISTORY

No legislative action has been taken on this issue to date.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF AUDIT & CONTROL

Sales Tax Compliance

PROPOSAL

Restore \$375,000 annual New York State Department of Taxation and Finance Sales Tax Compliance Grant. Work performed by the Audit Division pursuant to the grant aided the State in recovering millions of dollars in sales tax revenue that may have otherwise been lost.

JUSTIFICATION

Work performed by the Audit Division pursuant to the grant has aided the State in recovering millions of dollars in sales tax revenues that may have otherwise been lost. The State utilized recommendations submitted by the Audit Division to facilitate their audit selection process, thus enabling them to perform more productive audits which have resulted in material benefits that far exceeded grant costs. These audits have generated approximately 8.8 million dollars in assessments over the five-year period of 1998-2002. Additionally, the physical presence of County auditors performing routine inspections has been instrumental in gaining increased sales tax compliance among vendors, key requirements for increasing sales tax revenue generation.

FISCAL IMPACT

If enacted, this proposal would have a positive fiscal impact on Suffolk County, with revenue enhancements exceeding \$1 million to both the County and State, annually.

BACKGROUND & STATISTICS

From 1993 to 2001, Suffolk County was the recipient of a \$375,000 annual grant from the New York State Department of Taxation and Finance for the purpose of aiding the state in their sales tax compliance efforts. Under the grant, the Audit Division of the County Comptroller's Office conducted in depth analyses of business activities in Suffolk County to identify unregistered vendors and potential under reporters of sales tax revenues and referred them to the State for audit.

LEGISLATIVE HISTORY

No legislative action has been taken to date in this issue.

REVENUE ENHANCEMENT CATEGORY

OFFICE FOR THE AGING

Respite Funding

PROPOSAL

Fund the Respite Program at \$1.5 million statewide, which would include \$62,000 for Suffolk County's Respite Program.

JUSTIFICATION

The County's Respite Program provides temporary substitute care to impaired older individuals to give informal caregivers needed time off. This service is a dignified and cost-effective alternative to institutionalization, which often impoverishes the elderly and isolates them from their families. It is estimated that the Respite Program saves taxpayers approximately \$4 million annually by preventing premature institutionalization caused by caregiver "burnout."

FISCAL IMPACT

This proposal, if enacted, would bring in an additional \$62,000 in revenue from New York State. The Suffolk County Respite Program is a fully funded New York State program.

BACKGROUND & STATISTICS

Originally a demonstration project, the Respite Program became a permanent part of the Executive Laws of New York State, Chapter 482, in 1990, but funding for Respite has been absent from the subsequent proposed Executive Budgets.

Approximately 25% of all persons over the age of 65 require some assistance with personal care. Informal caregivers-family, friends and neighbors provide 80% of such care.

LEGISLATIVE HISTORY

Past legislative history indicates that Respite Funding has been provided each year as a legislative add-on item to the State Budget. In 2003, funding was included in the 2003-04 Budget but never allocated to Suffolk County.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF SOCIAL SERVICES

Cost of Living Adjustment to State Administrative Cap

PROPOSAL

The County requests a Cost of Living adjustment to the State administrative cap to reflect the Consumer Price Index in order to keep up with rising costs.

JUSTIFICATION

A major problem with the administrative cap is that it has not been adjusted in over eleven years, not even to reflect the rate of inflation. In addition, during the same eleven-year period, administrative responsibilities of counties have increased significantly since the inception of the administrative aid cap. This increase is due to program and eligibility expansion in the Medicaid and Food Stamp programs and to the additional administrative functions required by Welfare Reform.

FISCAL IMPACT

This Cost of Living Adjustment would result in \$4.36 million additional revenue for the County.

BACKGROUND & STATISTICS

Prior to 1990, local administrative costs for the above mentioned programs were reimbursed by the State at varying rates depending on the program. In 1990, as a cost containment measure the State imposed a cap on administrative expenses on all local social service districts. The state imposed a ceiling for local reimbursement based on 1989 expenditures. Any expenditure over this cap was a local liability. Suffolk County allocation was set at \$12 million and remained at this level until 2003, when the state reduced the cap to \$11 million and to \$9 million in 2004. There has not been any cost of living adjustment to the cap in over a decade.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF SOCIAL SERVICES

Elimination of State Administrative Cap

PROPOSAL

Eliminate the State Administrative Cap on public assistance, medical assistance and food stamp programs.

JUSTIFICATION

A major problem with the administrative cap is that it has not been adjusted in over eleven years, not even to reflect the rate of inflation. In addition, during the same eleven-year period, administrative responsibilities of counties have increased significantly since the inception of the administrative aid cap. This increase is due to program and eligibility expansion in the Medicaid and Food Stamp programs and to the additional administrative functions required by Welfare Reform. As applied, the administrative cap acts as a disincentive for local districts by discouraging them from implementing cost-containment measures.

FISCAL IMPACT

If the cap were eliminated, it would mean an increase in revenues of \$6.5 million.

BACKGROUND & STATISTICS

Prior to 1990, local administrative costs for the above mentioned programs were reimbursed by the State at varying rates depending on the program. In 1990, as a cost containment measure the State imposed a cap on administrative expenses on all local social service districts. The state imposed a ceiling for local reimbursement based on 1989 expenditures. Any expenditure over this cap was a local liability. SC allocation was set at \$12 million and remained at this level until 2003, when the state reduced the cap to \$11 million and to \$9 million in 2004.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

CORNELL COOPERATIVE EXTENSION

Farmland Preservation Funding

PROPOSAL

Support additional funding for the purchase of farmland developmental rights.

JUSTIFICATION

Although there is federal funding available for this purpose, in some cases it cannot be used due to federal regulations about the percentage of acreage that can be built on. Cornell Cooperative Extension requests the state to continue the purchase of development rights. To date, Suffolk County has preserved 10,000 acres of our 20,000-acre target.

FISCAL IMPACT

This proposal would have a positive impact on Suffolk County, with additional revenue reaching \$3,000,000 (as was received in past years).

LEGISLATIVE HISTORY

Every year the state cuts in amount of money spent on farmland preservation. \$12 million approved and \$3 million went to Suffolk.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF PUBLIC WORKS

Transfer of Service Road Maintenance & Request for Reimbursement

PROPOSAL

Amend Article II, Section 10, Subdivision 25 of the New York Highway Law to preclude the transfer of maintenance of frontage, margin or service roads without the approval of the local municipality. The County respectfully requests reimbursement of \$1 million in maintenance costs for the Long Island Expressway (LIE) and Sunrise Highway service roads.

JUSTIFICATION

The NYS Department of Transportation has, in the past, transferred the maintenance of service roads adjacent to the LIE and Sunrise Highway to Suffolk without reimbursement or the County's approval. Maintaining LIE service roads under Suffolk's jurisdiction is \$800,000 per year, plus another \$140,000 for snow removal. The cost of maintaining our portion of Sunrise Highway is \$150,000 per year and \$25,000 more for snow removal.

FISCAL IMPACT

If the State reimburses the County for the maintenance costs listed above it would mean \$1 million in revenue for the County.

BACKGROUND & STATISTICS

The New York State Department of Transportation (DOT) constructs numerous service roads along Sunrise Highway and the Long Island Expressway (LIE). As portions of these roads are completed, the State requires the County to maintain the roads. The DOT originally indicated that they would re-assume maintenance of the roads at such time as the roads were continuous. Although the roads are now continuous, the DOT continues to extend the roads but refuses to re-assume maintenance. These roads have increased the County Road system by approximately 15%. The County should not be forced to maintain roads that are clearly a State responsibility.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

CORNELL COOPERATIVE EXTENSION

Advantage After School Program

PROPOSAL

Restore full funding (\$1.5 million) to the Advantage After School Program, which gives vulnerable kids a safe and healthy environment after school.

FISCAL IMPACT

This proposal would have a positive impact on Suffolk County, bringing in an additional \$800,000 in revenue annually.

BACKGROUND & STATISTICS

Advantage After School funding was severely cut in the 2003-04 Budget, eliminating the program in Eastport and necessitating severe cuts in Selden, Easthampton, Wyandanch, Riverhead, Huntington and West Islip.

LEGISLATIVE HISTORY

The Governor proposed \$20 million for these programs statewide in 2003, and \$10 million was funded by the Legislature. Suffolk County is one of the areas in which funding was reduced. The Advantage Program has been in effect for four years. Last year there was a mishap with the budget and only \$700,000 was allocated. County does not match this funding.

REVENUE ENHANCEMENT CATEGORY

YOUTH BUREAU

Youth Delinquency/Development Program

PROPOSAL

Amend adopted Assembly bill A.5023 (Same as S.3518-A) amended Article 19-A, Section 420.1(a) of the Executive Law to include mandated funding for youth programs at a minimum rate of \$6.50 per youth up to a maximum rate of \$10.00 per youth. This funding for youth programs would be appropriated through the budget process.

JUSTIFICATION

Youth Programs have suffered the consequences of reduced funding, thereby forcing the County to incur higher social and financial costs. These costs find expression in escalated welfare and vandalism expenses, more of a need for expensive group home placements, and emergency medical services along with an increase in juvenile crime and delinquency.

FISCAL IMPACT

An increase to \$6.50 per youth would be a revenue enhancement of \$744,733 for Suffolk County Youth Programs.

BACKGROUND & STATISTICS

Adopted Assembly Bill A 5023 (Same as S3518-A) amended Article 19-A, Section 420.1 (a) of the Executive Law in relation to financial aid to municipalities for your programs. The bill updated the per capita formula amounts for the distribution of State funds for Youth Delinquency programs. The formula was changed from \$6.50 per youth to \$10.00 per youth. However, the bill limited the funding for youth bureaus to the funds appropriated through the budget process. The formula was reduced during the State budget deliberations in prior years and now provides reimbursement at only \$5.20 per youth. This reduced level negatively impacts youth services throughout Suffolk County.

LEGISLATIVE HISTORY

No legislative action has been taken to date on this issue.

IN ASSEMBLY

February 20, 2001

Introduced by M. of A. GREEN, EVE, HOYT, ENGLEBRIGHT, GORDON, CAHILL -- Multi-Sponsored by -- M. of A. COOK, DiNAPOLI, EDDINGTON, LUSTER, McENENY, SIDIKMAN, WEISENBERG -- read once and referred to the Committee on Children and Families -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Children and Families in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to financial aid to municipalities for youth programs, and the assumption of the functions, powers, duties and obligations of the division for youth by the office of children and family services; to repeal certain provisions of article 19-A of such law relating to the youth commission; and to repeal sections 4 and 5 of chapter 881 of the laws of 1960, amending the executive law and code of criminal procedure relating to the council on youth, relating to the youth commission

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The article heading of article 19-A of the executive law,
2 as added by chapter 636 of the laws of 1956, is amended to read as
3 follows:

4 ~~[YOUTH COMMISSION]~~ **DELINQUENCY AND YOUTH**
5 **CRIME PREVENTION**

6 § 2. Sections 410, 413, 414, 415, 416, 417 and 418 of the executive
7 law are REPEALED.

8 § 3. Section 411 of the executive law, as added by chapter 636 of the
9 laws of 1956, is amended to read as follows:

10 § 411. Purpose of article. The purpose of this article is to ~~[provide~~
11 ~~for a permanent youth commission to recommend and]~~ put into effect those

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 measures most suitable to supplement and aid in coordinating the work of
2 existing religious and social institutions for the prevention of delin-
3 quency and youth crime, and the advancement of the moral, physical,
4 mental and social well-being of the youth of this state, and to encour-
5 age the municipalities of this state to undertake increased activities
6 in this field by assistance and financial aid as provided in this arti-

7 cle.

8 § 4. Section 412 of the executive law, as added by chapter 636 of the
9 laws of 1956, subdivision 3 as amended and subdivision 6 as added by
10 chapter 879 of the laws of 1976, is amended to read as follows:

11 § 412. Definitions. As used in this article,

12 1. ~~["Commission" shall mean the state youth commission created by this~~
13 ~~article.] "Office" shall mean the office of children and family services~~
14 ~~established in the department of family assistance by chapter four~~
15 ~~hundred thirty-six of the laws of nineteen hundred ninety-seven.~~

16 2. "Commissioner" shall mean the commissioner of children and family
17 services, designated as the head of the office of children and family
18 services by chapter four hundred thirty-six of the laws of nineteen
19 hundred ninety-seven.

20 3. "Youth" shall mean any person under twenty-one years of age.

21 ~~[3.]~~ 4. "Municipality" shall mean a county, city, village, town, that
22 part of a town not included within the boundaries of a village, or a
23 school district (if approved for such purpose by the ~~[director]~~ commis-
24 sioner, in instances where no other municipality, overlapping such
25 school district in whole or part, is receiving state aid pursuant to
26 this article or upon such other basis as the ~~[director]~~ commissioner
27 shall by regulation determine). Municipality may mean an Indian reser-
28 vation, subject to rules and regulations of the ~~[division]~~ office.

29 ~~[4.]~~ 5. "Youth program" shall mean a "youth bureau," "recreation
30 project" or "youth service" project established under prior authorizing
31 legislation establishing a temporary state youth commission as well as
32 similar local programs designed to accomplish the broad purposes of this
33 article. The definition, determination and classification of youth
34 programs shall be subject to approval by the ~~[commission]~~ office in
35 accordance with rules and regulations adopted by it.

36 ~~[5.]~~ 6. "State aid" shall mean payments by the state to a municipality
37 for or toward the cost of establishment, operation and/or maintenance of
38 approved youth programs in accordance with the provisions of this arti-
39 cle.

40 ~~[6.]~~ 7. "Youth board" shall mean the citizen board of a youth bureau.

41 § 5. Section 419 of the executive law, as added by chapter 636 of the
42 laws of 1956, is amended to read as follows:

43 § 419. Rules and regulations. The ~~[commission]~~ office may adopt, amend
44 or rescind all rules and regulations necessary to carry out the
45 provisions of this article, including the objective that state aid here-
46 under shall be granted uniformly throughout the state, having regard for
47 varying conditions and needs in different parts of the state. ~~[Unless or~~
48 ~~until the commission shall provide otherwise, or amend or repeal the~~
49 ~~rules and regulations of the former temporary state youth commission,~~
50 ~~they shall continue as the rules and regulations of the commission~~
51 ~~constituted pursuant to this article.]~~

52 § 6. Section 420 of the executive law, as added by chapter 1000 of the
53 laws of 1974, the opening paragraph of subdivision 1 as amended and
54 paragraph c of subdivision 1 as added by chapter 721 of the laws of
55 1978, subparagraph 2 of paragraph a of subdivision 1 as amended by chap-
56 ter 879 of the laws of 1976, subparagraph 3 of paragraph a of subdivi-
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1 sion 1 as amended by chapter 929 of the laws of 1984, subparagraph 4 of
2 paragraph a and subparagraph 4 of paragraph b of subdivision 1 as
3 amended by chapter 727 of the laws of 1982, paragraph b of subdivision 1
4 as amended by chapter 919 of the laws of 1977, subdivision 2 as added
5 and subdivisions 3 and 4 as renumbered by chapter 722 of the laws of

6 1978, paragraphs a and d of subdivision 2 as amended by chapter 800 of
7 the laws of 1985, subparagraph 1 of paragraph d of subdivision 2 as
8 amended by chapter 290 of the laws of 1989, and subparagraph 2 of para-
9 graph d of subdivision 2 as amended by chapter 681 of the laws of 1994,
10 is amended to read as follows:

11 § 420. State aid. 1. There shall be three alternative methods through
12 which a county or municipality as defined in this article can obtain
13 state aid for youth programs provided in its geographic area. When such
14 youth programs are approved for state aid by the ~~[director of the divi-~~
15 ~~sion for youth]~~ commissioner, state aid shall be paid to the county or
16 municipality, in accordance with the approved youth program, within the
17 limits of the state aid formula set forth in this section and within the
18 limits of funds made available by appropriation.

19 a. Comprehensive county plan; state aid.

20 (1) A county may submit to the ~~[director of the division for youth]~~
21 commissioner a comprehensive plan for the provision of a broad coordi-
22 nated range of programs for the youth of such county. Such a plan must
23 have been developed in accordance with the regulations of the ~~[director]~~
24 commissioner and shall include provision for review and evaluation of
25 the programs provided to youth in the county.

26 (2) Such county shall also submit to the ~~[director]~~ commissioner, if
27 required by ~~[him]~~ the commissioner, quarterly estimates of anticipated
28 expenditures for operation and maintenance of its youth program, includ-
29 ing rental of buildings, purchase of equipment, administrative expense
30 and approved expenditures for improvements to real property for youth
31 program purposes not less than thirty days before the first day of the
32 months of April, July, October and January, in such form and containing
33 such additional information as the ~~[director]~~ commissioner may require.
34 At the end of each quarter each county shall submit to the ~~[director]~~
35 commissioner, in such form as the ~~[director]~~ commissioner may require, a
36 verified accounting of the financial operations of such youth program
37 during such quarter together with a claim for reimbursement of one-half
38 of such amount as herein provided. The ~~[director]~~ commissioner may, at
39 his discretion, permit the submission of such accountings for periods
40 greater than three months, but not exceeding one year.

41 (3) The ~~[director]~~ commissioner shall thereupon certify to the comp-
42 troller for payment by the state of one-half of the entire amount of
43 such expenditures as approved by the ~~[director]~~ commissioner; provided,
44 however, that the amount of state aid for youth bureaus shall not exceed
45 seventy-five thousand dollars per annum for any county youth bureau and
46 fifty thousand dollars for any city, town or village youth bureau except
47 a city containing wholly within its boundaries more than one county and
48 such city may be granted state aid not in excess of an aggregate sum per
49 annum equal to seventy-five thousand dollars for each county therein;
50 except that the ~~[director]~~ commissioner may authorize additional state
51 aid for any youth bureau in an amount not to exceed twenty-five thousand
52 dollars per annum where a municipality has exceeded maximum state aid
53 youth bureau eligibility for at least the two preceding fiscal years;
54 provided further, however, that the aggregate amount of state aid for
55 recreation, youth service and similar projects to any county shall not
56 exceed five thousand five hundred dollars per annum, of which no more

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1 than two thousand nine hundred dollars may be used for recreation
2 projects, for each one thousand youths residing therein as shown by the
3 last published federal census certified in the same manner as provided
4 by section fifty-four of the state finance law~~[-and provided further,~~

5 however, that any county may be granted state aid in an amount up to one
6 thousand six hundred dollars per annum for recreation projects and up to
7 three thousand dollars for a youth service project, or for a youth
8 service project and recreation project or other youth project with the
9 approval of the director nor shall the aggregate state aid eligibility
10 to a county for the youths residing in any municipality which is partic-
11 ipating in the comprehensive plan of such county be less than the aggre-
12 gate amount of state aid for approved youth programs received by the
13 county and the municipality for such youths, in the year prior to
14 participation in comprehensive planning]. No county operating and main-
15 taining such a youth program shall receive state aid in excess of one-
16 half of its expenditures as approved by the [director] commissioner.
17 [Notwithstanding the foregoing provisions of this subparagraph, no coun-
18 ty shall be eligible for state aid for youth programs pursuant to this
19 subparagraph in amounts less than those requested in the last comprehen-
20 sive plan accepted and approved by the director prior to the effective
21 date of this act.]

22 (4) Any county which has fully utilized its maximum eligibility for
23 state aid for youth programs provided in subparagraph three of this
24 paragraph shall be eligible to receive additional state aid for programs
25 which provide new or expanded youth development and delinquency
26 prevention services designed to curb the high priority problems affect-
27 ing youth, including but not limited to the problems of truancy, youth
28 prostitution, school violence, multi-problem families, police juvenile
29 aid bureaus, and the inappropriate placement of youths in residential or
30 institutional settings, in accordance with the regulations of the
31 [director] commissioner. Such programs shall be submitted as part of the
32 comprehensive county plan of such counties, and shall be consistent with
33 the goals and objectives contained therein. Upon approval of such
34 programs, the [director] commissioner shall certify to the comptroller
35 for payment by the state of one-half of the entire amount of expendi-
36 tures for such approved programs, after first deducting therefrom any
37 federal or other state funds received or to be received on account ther-
38 eof, provided, however, that the aggregate amount of such state aid
39 shall not exceed one thousand dollars per annum for each one thousand
40 youths residing in such county as shown by the last published federal
41 census certified in the same manner as provided by section fifty-four of
42 the state finance law. [Notwithstanding the foregoing provisions of this
43 subparagraph, no county shall be eligible for state aid for youth
44 programs pursuant to this subparagraph in amounts less than those
45 requested in the last comprehensive plan accepted and approved by the
46 director prior to the effective date of this act.]

47 b. State aid for [municipalities] youth development and delinquency
48 prevention programs through municipalities.

49 (1) [Until April first, nineteen hundred seventy-seven, except as
50 provided under subparagraph five, each county, city, town or village
51 operating and maintaining a youth program may submit to the director, if
52 required by him, quarterly estimates of anticipated expenditures for
53 operation and maintenance of a youth program, including also rental of
54 buildings, purchase of equipment, administrative expense and approved
55 expenditures for improvements to real property for youth program
56 purposes not less than thirty days before the first day of the months of

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1 April, July, October and January, in such form and containing such addi-
2 tional information as the director may require. At the end of each quar-
3 ter each municipality shall submit to the director, in such form as the

4 ~~director may require, a verified accounting of the financial operations~~
5 ~~of such youth programs during such quarter together with a claim for~~
6 ~~reimbursement of one half of such amount as herein provided. The direc-~~
7 ~~tor may, at his discretion, permit the submission of such accountings~~
8 ~~for periods greater than three months, but not exceeding one year.~~

9 ~~(2) The director until April first, nineteen hundred seventy seven,~~
10 ~~except as provided under subparagraph five, shall thereupon certify to~~
11 ~~the comptroller for payment by the state of one half of the entire~~
12 ~~amount of such expenditures as approved by the director, provided,~~
13 ~~however, that the amount of state aid for youth bureaus shall not exceed~~
14 ~~seventy five thousand dollars per annum for any youth bureau of a county~~
15 ~~and fifty thousand dollars for any youth bureau of a city, town or~~
16 ~~village, except a city containing wholly within its boundaries more than~~
17 ~~one county and such city may be granted state aid not in excess of an~~
18 ~~aggregate sum per annum equal to seventy five thousand dollars for each~~
19 ~~county therein, and provided further, however, that the aggregate amount~~
20 ~~of state aid for recreation, youth service and similar projects to any~~
21 ~~municipality (other than a school district) shall not exceed two thou-~~
22 ~~sand two hundred fifty dollars per annum, of which no more than one~~
23 ~~thousand two hundred dollars may be used for recreation projects, for~~
24 ~~each one thousand youths residing therein as shown by the last published~~
25 ~~federal census certified in the same manner as provided by section~~
26 ~~fifty four of the state finance law, provided further, however, that any~~
27 ~~municipality may be granted state aid in an amount up to one thousand~~
28 ~~six hundred dollars per annum for recreation projects and up to three~~
29 ~~thousand dollars for a youth service project, or for a youth service~~
30 ~~project and recreation project or other youth project with the approval~~
31 ~~of the director. Such aggregate amount of state aid shall be allocated~~
32 ~~to each municipality based upon the youth population within such municipi-~~
33 ~~pal border, except that the youth population of a town shall include the~~
34 ~~youth population of a village where that village has not made applica-~~
35 ~~tion to the division for a recreation or youth service project within~~
36 ~~the preceding twelve month period. No municipality operating and main-~~
37 ~~taining such a program shall receive state aid in excess of one half of~~
38 ~~its expenditures approved by the director. At no time shall a youth be~~
39 ~~counted more than two times for purposes of state aid. No school~~
40 ~~district presently receiving state aid shall receive more than an aggre-~~
41 ~~gate of one thousand six hundred dollars per annum, but the director in~~
42 ~~specific cases may at his discretion fix such total allowable state aid~~
43 ~~at any larger amount not exceeding three thousand two hundred dollars on~~
44 ~~the basis of population or other reasonable distinction. Provided~~
45 ~~further, that a school district which is not eligible for state aid for~~
46 ~~an approved youth program may not make application for such program~~
47 ~~after April first, nineteen hundred seventy seven.~~

48 ~~(3) After April first, nineteen hundred seventy seven, except as~~
49 ~~provided under subparagraph five, each] Each county, city, town or~~
50 ~~village operating and maintaining a youth program may submit to the~~
51 ~~[director] commissioner estimates of anticipated expenditures, including~~
52 ~~rental of buildings, purchase of equipment, administrative expense and~~
53 ~~approved expenditures for improvements to real property for youth~~
54 ~~program purposes, at such time, in such form and containing such addi-~~
55 ~~tional information as the [director] commissioner may require. At the~~
56 ~~end of each quarter each municipality shall submit to the [director]~~

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1 commissioner, in such form as the [director] commissioner may require, a
2 verified accounting of the financial operations of such youth programs

3 during such quarter together with a claim for reimbursement of one-half
4 of such amount as herein provided. The ~~[director]~~ commissioner may, at
5 his discretion, permit the submission of such accountings for periods
6 greater than three months, but not exceeding one year.

7 ~~[(4) After April first, nineteen hundred seventy seven, except as~~
8 ~~provided under subparagraph five, the director]~~ (2) The commissioner
9 shall thereupon certify to the comptroller for payment by the state of
10 one-half of the entire amount of such expenditures as approved by the
11 ~~[director]~~ commissioner; provided, however, that the amount of state aid
12 for youth bureaus shall not exceed seventy-five thousand dollars per
13 annum for any youth bureau of a county, and fifty thousand dollars for
14 any youth bureau of a city, town or village, except a city containing
15 wholly within its boundaries more than one county and such city may be
16 granted state aid not in excess of an aggregate sum per annum equal to
17 seventy-five thousand dollars for each county therein; and provided
18 further, however, that the aggregate amount of state aid for recreation,
19 youth service and similar projects to a county and municipalities within
20 such county shall not be less than two thousand seven hundred fifty
21 dollars of which no more than one thousand four hundred fifty dollars
22 may be used for recreation projects, per one thousand youths residing in
23 the county based on a single count of such youths as shown by the last
24 published federal census for the county certified in the same manner as
25 provided by section fifty-four of the state finance law. Such aggregate
26 amount of state aid shall be allocated first to the unit of local
27 government having the least population and to each succeeding unit based
28 on population in such manner so that no one youth shall be counted more
29 than one time for state aid purposes ~~[except as provided under subpara-~~
30 ~~graph five of this paragraph.~~

31 ~~(5) After April first, nineteen hundred seventy seven, a youth may~~
32 ~~continue to receive state aid pursuant to subparagraphs one and two of~~
33 ~~this paragraph until April first, nineteen hundred seventy eight, if the~~
34 ~~county of residence of such youth shall have satisfied the following~~
35 ~~provisions on or before April first, nineteen hundred seventy seven:~~

36 ~~(i) Such county shall have submitted to the division a formal state~~
37 ~~ment of intent, approved by the chief executive officer of such county,~~
38 ~~or if there be none, by the county legislative body, to file a compre-~~
39 ~~hensive county plan as described in paragraph a of subdivision one of~~
40 ~~this section.~~

41 ~~(ii) Such county shall have empaneled the county "youth board" pursu-~~
42 ~~ant to rules and regulations of the division.~~

43 ~~(iii) Such county shall have initiated a preliminary survey and~~
44 ~~assessment of the resources and needs relating to the youth of that~~
45 ~~county pursuant to rules and regulations of the division].~~

46 c. State aid for ~~[priority youth initiatives]~~ special delinquency
47 prevention programs.

48 (1) ~~[Any county or municipality may submit to the director a proposal,~~
49 ~~for the provision of priority youth initiatives, including but not~~
50 ~~limited to, time-limited demonstration or experimental projects designed~~
51 ~~to curb youth prostitution, truancy, or school violence and other delin-~~
52 ~~quency prevention projects and inappropriate placement of youths in~~
53 ~~residential or institutional settings, in accordance with the regu-~~
54 ~~lations of the director. No proposal shall be approved by the director~~
55 ~~unless and until the county or municipality has entered into a contract~~
56 ~~with the director to conduct such demonstration or experimental program~~

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1 ~~for a period not to exceed three years upon such terms and conditions as~~

2 may be required by the director. Where a county has submitted a compre-
3 hensive plan pursuant to section four hundred twenty of the executive
4 law, no proposal submitted shall be approved unless it is found to be
5 consistent with the goals and objectives of the comprehensive county
6 plan, and the county youth bureau has been given a reasonable opportu-
7 nity to review and comment on the proposal.

8 ~~(2) Such county or municipality shall also submit to the director~~
9 ~~estimates of anticipated expenditures for operation and maintenance of~~
10 ~~its youth initiatives at such time, in such form and containing such~~
11 ~~additional information as the director may require. At the end of each~~
12 ~~quarter each county or municipality shall submit to the director, in~~
13 ~~such form as the director may require, a verified accounting of the~~
14 ~~financial operations of such youth initiatives during such quarter~~
15 ~~together with a claim for reimbursement of such percentage of such~~
16 ~~amount as hereinafter provided. The director may, at his discretion,~~
17 ~~permit the submission of such accountings for periods of greater than~~
18 ~~three months, but not exceeding one year.~~

19 ~~(3) Upon approval of such youth initiatives proposal, the director~~
20 ~~shall certify to the comptroller for payment by the state of such~~
21 ~~expenditures as approved by the director after first deducting therefrom~~
22 ~~any federal or other state funds received or to be received on account~~
23 ~~thereof, in the following amounts: seventy five percent of the first~~
24 ~~year's expenditures, seventy five percent of the second year's expendi-~~
25 ~~tures, sixty percent of the third year's expenditures. Thereafter,~~
26 ~~payment by the state of such expenditures as approved by the director~~
27 ~~shall be made pursuant to the paragraphs a and b of this subdivision.~~
28 ~~Reimbursement pursuant to this paragraph shall be from and limited to~~
29 ~~funds appropriated separately for such youth initiatives purposes by the~~
30 ~~state.~~

31 ~~(4) This paragraph shall cease to be in effect on July first, nineteen~~
32 ~~hundred eighty three. The director of the division shall not approve any~~
33 ~~program which extends beyond such date.] Within the limits of funds made~~
34 ~~available by appropriation, the office and county youth bureaus may~~
35 ~~enter into contracts with private not-for-profit community agencies to~~
36 ~~provide needed services for the operation of programs to prevent juve-~~
37 ~~nile delinquency and promote youth development. Where it is documented~~
38 ~~that private not-for-profit community agencies are not available to~~
39 ~~provide such services, the office and county youth bureaus may allocate~~
40 ~~available funds to public agencies.~~

41 (2) Funds shall be made available under this paragraph;

42 (i) by the office to county youth bureaus to support community agen-
43 cies in counties outside the city of New York based on youth population.
44 Funded programs must be submitted by the county youth bureaus as part of
45 their county's comprehensive county plan and be consistent with the
46 goals and objectives contained therein. These funds shall be allocated
47 by county youth bureaus for distribution subject to final funding deter-
48 minations by the commissioner subject to the approval of the director of
49 the budget;

50 (ii) by the commissioner to community agencies in cities with popu-
51 lations of three hundred thousand or more subject to the approval of the
52 director of the budget; and

53 (iii) by the commissioner to community agencies statewide and through
54 contingency funding subject to the approval of the director of the budg-
55 et.

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1 (3) The office shall not reimburse any claims under this paragraph

2 unless they are submitted within seven months of the project year in
3 which the expenditure was made.

4 2. Runaway and homeless youth plan; state aid.

5 a. A county may submit to the ~~[director of the division for youth]~~
6 commissioner a plan for the providing of services for runaway and home-
7 less youth, as defined in article nineteen-H of this chapter. Where such
8 county is receiving state aid pursuant to paragraph a of subdivision one
9 of this section, such runaway and homeless youth plan shall be submitted
10 as part of the comprehensive county plan and shall be consistent with
11 the goals and objectives therein. A runaway and homeless youth plan
12 shall be developed in consultation with the county youth bureau and the
13 county or city department of social services, shall be in accordance
14 with the regulations of the ~~[director]~~ commissioner, shall provide for a
15 coordinated range of services for runaway and homeless youth and their
16 families including preventive, temporary shelter, transportation, coun-
17 seling, and other necessary assistance, and shall provide for the coor-
18 dination of all available county resources for runaway and homeless
19 youth and their families including services available through the county
20 youth bureau, the county or city department of social services, local
21 boards of education, local drug and alcohol programs and organizations
22 or programs which have past experience dealing with runaway and homeless
23 youth. Such plan may include provisions for transitional independent
24 living support programs for homeless youth between the ages of sixteen
25 and twenty-one as provided in article nineteen-H of this chapter. Such
26 plan shall also provide for the designation and duties of the runaway
27 and homeless youth service coordinator defined in section five hundred
28 thirty-two-a of this chapter who is available on a twenty-four hour
29 basis and maintains information concerning available shelter space,
30 transportation and services. Such plan may include provision for the per
31 diem reimbursement for residential care of runaway and homeless youth in
32 approved runaway programs which are authorized agencies, provided that
33 such per diem reimbursement shall not exceed a total of thirty days for
34 any one youth.

35 b. Each county shall submit to the ~~[director]~~ commissioner such addi-
36 tional information as ~~[he]~~ the commissioner shall require, including but
37 not limited to:

38 (1) A description of the current runaway and homeless population
39 including their age, place of origin, family status, service needs and
40 eventual disposition;

41 (2) A description of the public and private resources available to
42 serve runaway and homeless youth within the county;

43 (3) A description of new services to be provided and current services
44 to be expanded.

45 c. The ~~[director]~~ commissioner shall review such plan and may approve
46 or disapprove such plan, or any part, program, or project within such
47 plan, and may propose such modifications and conditions as deemed appro-
48 priate and necessary.

49 d. (1) Counties having an approved runaway and homeless youth plan
50 pursuant to this subdivision shall be entitled to reimbursement by the
51 state for sixty percent of the entire amount of the expenditures for
52 programs contained in such plan as approved by the ~~[director]~~ commis-
53 sioner, after first deducting therefrom any federal or other state funds
54 received or to be received on account thereof. ~~[A county having an~~
55 ~~approved runaway and homeless youth plan prior to January first, nine-~~
56 ~~teen hundred eighty may, with the approval of the director and the~~

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9

1 ~~director of the budget, be eligible to receive reimbursement by the~~
2 ~~state of up to seventy five percent of the first year's expenditures for~~
3 ~~new or expanded services to runaway and homeless youth not previously~~
4 ~~provided in such county which are contained within such county's initial~~
5 ~~approved plan. Any such programs shall then be eligible for reimburse-~~
6 ~~ment of up to seventy five percent of the second year's expenditures,~~
7 ~~and sixty percent thereafter.]~~ All reimbursement pursuant to this subdi-
8 vision shall be from and limited to funds appropriated separately for
9 such runaway and homeless youth program purposes by the state, and shall
10 not be included under the limits set in subdivision one of this section.
11 The county's share of the cost of such programs may be met in part by
12 donated private funds or in-kind services, as defined by the [division
13 for youth] office, provided that such private funding or receipt of
14 services shall not in the aggregate be more than fifty percent of such
15 county's share.

16 (2) Notwithstanding any inconsistent provision of law and subject to
17 funds appropriated separately therefor, a county having an approved
18 runaway and homeless youth plan which includes provisions for transi-
19 tional independent living support programs shall be entitled to
20 reimbursement by the state for sixty percent of the entire amount of the
21 approved expenditures for transitional independent living support
22 programs contained in the plan as approved by the ~~[director]~~ commission-
23 er. The county's share of the cost of such programs may be met by
24 donated private funds or in-kind services, as defined by the [division
25 for youth] office, provided that such receipt of in-kind services shall
26 not in the aggregate be more than fifty percent of such county's share.

27 3. For the purpose of reimbursement by the state, administrative
28 expenses shall include compensation for personal services paid by a
29 municipality, to any employee for the purpose of administering the bene-
30 fits provided by this article. No state reimbursement shall be made,
31 however, for such compensation paid to any employee who lacks the quali-
32 fications necessary for the work or who, after a trial period, is
33 considered by the ~~[director]~~ commissioner unable to do satisfactory
34 work.

35 4. Moneys appropriated for use of the ~~[director of the division for~~
36 youth] commissioner shall be paid out of the state treasury on the
37 certificate of the ~~[director]~~ commissioner or of an officer of the
38 [division] office designated by the ~~[director]~~ commissioner, after audit
39 by and upon the warrant of the comptroller.

40 § 7. Section 421 of the executive law, as added by chapter 636 of the
41 laws of 1956, is amended to read as follows:

42 § 421. Withholding state aid. The ~~[commission]~~ office may authorize or
43 require the comptroller to withhold the payment of state aid to any
44 municipality in the event such municipality alters or discontinues with-
45 out the approval of the ~~[commission]~~ office the operation of a plan
46 approved by the ~~[commission]~~ office, or fails to adopt or change a plan
47 as recommended by the ~~[commission]~~ office, or fails to comply with rules
48 or regulations established by the ~~[commission]~~ office, or fails to
49 enforce in a manner satisfactory to the ~~[commission]~~ office, laws now in
50 effect or hereafter adopted that relate in any manner to the protection
51 and welfare of youth.

52 § 8. Subdivisions 1, 3, 4, 7, 8 and 9 of section 422 of the executive
53 law, subdivision 1 as amended by chapter 821 of the laws of 1966, subdi-
54 visions 3, 4, 7 and 8 as added by chapter 636 of the laws of 1956, and
55 subdivision 9 as added by chapter 769 of the laws of 1956, are amended
56 to read as follows:

1 1. Any county or city, or any town or village with a total population
2 of twenty thousand or more persons desiring to establish a youth bureau,
3 or any municipality desiring to establish a recreation, youth service or
4 other project may apply to the ~~[commission]~~ office for approval of its
5 plans. The application shall be in writing, specifying the nature of the
6 program, and shall contain such information as the ~~[commission]~~ office
7 shall require.

8 3. The ~~[commission]~~ office may approve or disapprove the proposed
9 youth program as filed, or, if its modifications are not objected to by
10 the applicant, approve the same with such modifications.

11 4. The approval of any proposed youth program by the ~~[commission]~~
12 office shall authorize the county, city or municipality to establish,
13 operate and maintain the program and entitle it to state aid as herein
14 set forth; provided, however, the ~~[commission]~~ office may at any time
15 subsequently withdraw its approval or require changes in a plan or
16 program previously approved.

17 7. Moneys derived by a municipality from taxation, from profits of a
18 public utility service operated by it, or from gifts or grants available
19 therefor, may be made available in accordance with law and expended for
20 improvements to real property owned by it and held for school purposes
21 or owned by a school district in whole or in part located in such muni-
22 cipality where such real property is used by such municipality for youth
23 program purposes and where such improvements are required in connection
24 with such purposes. Such municipality may receive reimbursement for such
25 expenditures as herein provided, subject to the rules and regulations of
26 the ~~[commission]~~ office.

27 8. The ~~[commission]~~ office, by rule and regulation, may authorize
28 expenditures to be made by a municipality for work to be done or
29 improvements to be made to real property for youth program purposes.

30 9. Subject to the regulations of the ~~[commission]~~ office, a muni-
31 cipality may enter into contracts to effectuate its youth program estab-
32 lished and approved as provided in this article.

33 § 9. Section 423 of the executive law, as added by chapter 636 of the
34 laws of 1956, is amended to read as follows:

35 § 423. Grants; raising and paying over of local funds. 1. The
36 ~~[commission]~~ office, with the approval of the governor, may accept as
37 agent of the state any gift or grant for any of the purposes of this
38 article. Any moneys so received may be expended by the ~~[commission]~~
39 office to effectuate any of the purposes of this article, subject to the
40 same limitations as to approval of project, approval of expenditures and
41 audit as are prescribed for state moneys appropriated for the purposes
42 of this article.

43 2. A board of education, board of trustees or trustee of a school
44 district may raise, appropriate and pay over to a municipality in which
45 it is in whole or in part located moneys to be expended by such munici-
46 pality for any purpose authorized by this article. Such a ~~[municipali-~~
47 ty] municipality may accept and expend moneys so received only for such
48 purpose. Moneys so appropriated and paid over by a school district shall
49 not be included in computing the amount that should be apportioned to
50 such school district pursuant to article seventy-three of the education
51 law.

52 § 10. Section 424 of the executive law, as added by chapter 636 of the
53 laws of 1956, is amended to read as follows:

54 § 424. Report and recommendations. The ~~[commission]~~ office shall make
55 an annual report to the governor and legislature which shall include its
56 recommendations and program with respect to the provisions of this arti-

1 ~~cle. [When advisable, the commission shall make an interim report to the~~
 2 ~~governor and the legislature with its recommendations, in order to~~
 3 ~~afford opportunity for the legislature to take immediate action there-~~
 4 ~~on.]~~

5 § 11. The article heading of article 19-G of the executive law, as
 6 added by chapter 881 of the laws of 1960, is amended to read as follows:

7 ~~[DIVISION FOR YOUTH]~~ OFFICE OF CHILDREN AND FAMILY
 8 SERVICES

9 § 12. Section 500 of the executive law, as amended by chapter 465 of
 10 the laws of 1992, is amended to read as follows:

11 § 500. ~~[Division for youth, director]~~ Office of children and family
 12 services; commissioner. 1. There is hereby ~~[created]~~ continued in the
 13 ~~[executive]~~ department ~~[a division for youth]~~ of family assistance an
 14 autonomous office of children and family services. The head of such
 15 ~~[division]~~ office shall be ~~[a director]~~ the commissioner of children and
 16 family services, who shall be appointed by the governor, by and with the
 17 advice and consent of the senate, and shall ~~[hold office during]~~ serve
 18 at the pleasure of the governor. ~~[The director shall also serve as~~
 19 ~~chairperson of the council on youth as provided in article nineteen A of~~
 20 ~~this chapter. The director shall receive an annual salary to be fixed~~
 21 ~~by the governor within the appropriation provided by law. The director~~
 22 ~~shall also be entitled to receive expenses actually and necessarily~~
 23 ~~incurred in the performance of his or her duties.]~~ The ~~[director]~~
 24 commissioner may appoint such officers, employees, agents and consult-
 25 ants as he or she may deem necessary, prescribe their duties, fix their
 26 compensation and provide for reimbursement of their expenses within the
 27 amounts available therefor by appropriation.

28 2. The ~~[director of the division for youth]~~ commissioner may promul-
 29 gate, adopt, amend or rescind rules and regulations necessary to carry
 30 out the provisions of this article, provided, however, that such rules
 31 and regulations shall be strictly limited in their application to the
 32 means and methods of compliance with the provisions of this article.

33 3. Whenever the division for youth or its director is referred to in
 34 any provision of this chapter or in any other law, such reference shall
 35 be deemed to refer to the office of children and family services or the
 36 commissioner of children and family services.

37 § 13. Nothing in this act shall be construed to amend or repeal any
 38 provision of chapter 436 of the laws of 1997 or to limit the scope of
 39 any legislative proposals that may be developed pursuant to section 125
 40 of part B of such chapter. Notwithstanding any other provision of this
 41 act or of section 123 of part B of such chapter, the office of children
 42 and family services, as the transferee of all functions, powers, duties
 43 and obligations of the former division for youth pursuant to chapter 436
 44 of the laws of 1997, shall also hold and be responsible for all func-
 45 tions, powers, duties and obligations of the former state youth commis-
 46 sion, as transferred and assigned to, assumed by and devolved upon the
 47 former division for youth pursuant to chapter 881 of the laws of 1960,
 48 except that those powers that could be exercised only with the approval
 49 of the council on youth shall hereafter not be so limited.

50 § 14. Sections 4 and 5 of chapter 881 of the laws of 1960, amending
 51 the executive law and code of criminal procedure relating to the council
 52 on youth, are REPEALED.

1 § 15. Subdivisions 3 and 5 of section 532-a of the executive law,
2 subdivision 3 as amended and subdivision 5 as added by chapter 800 of
3 the laws of 1985, are amended to read as follows:

4 3. "Approved runaway program" shall mean any non-residential program
5 approved by the ~~[division for youth]~~ office of children and family
6 services after submission by the county youth bureau, as part of its
7 comprehensive plan, or any residential facility which is operated by an
8 authorized agency as defined in subdivision ten of section three hundred
9 seventy-one of the social services law, and approved by the ~~[division~~
10 ~~for youth]~~ office of children and family services after submission by
11 the county youth bureau as part of its comprehensive plan, established
12 and operated to provide services to runaway and homeless youth in
13 accordance with the regulations of the ~~[state department of social~~
14 ~~services]~~ office of temporary and disability assistance and the ~~[divi-~~
15 ~~sion for youth]~~ office of children and family services.

16 5. "Transitional independent living support program" shall mean any
17 non-residential program approved by the ~~[division for youth]~~ office of
18 children and family services after submission by the county youth bureau
19 as part of its comprehensive plan, or any residential facility approved
20 by the ~~[division for youth]~~ office of children and family services after
21 submission by the county youth bureau as part of its comprehensive plan,
22 established and operated to provide supportive services, for a period of
23 up to twelve months in accordance with the regulations of the ~~[division~~
24 ~~for youth]~~ office of children and family services, to enable homeless
25 youth between the ages of sixteen and twenty-one to progress from crisis
26 care and transitional care to independent living.

27 § 16. The opening paragraph of subdivision 1 of section 532-b of the
28 executive law, as added by chapter 722 of the laws of 1978, is amended
29 to read as follows:

30 Notwithstanding any other provision of law, pursuant to regulations of
31 the ~~[division for youth]~~ office of children and family services an
32 approved runaway program is authorized to and shall:

33 § 17. Section 532-d of the executive law, as added by chapter 800 of
34 the laws of 1985, is amended to read as follows:

35 § 532-d. Residential facilities operated as transitional independent
36 living support programs. Notwithstanding any inconsistent provision of
37 law, pursuant to regulations of the ~~[division for youth]~~ office of chil-
38 dren and family services, residential facilities operating as transi-
39 tional independent living support programs are authorized to and shall:

40 (a) provide shelter to homeless youth between the ages of sixteen and
41 twenty-one as defined in this article;

42 (b) work toward reuniting such homeless youth with his parent, guardi-
43 an or custodian, where possible;

44 (c) provide or assist in securing necessary services for such homeless
45 youth, and where appropriate, his family, including but not limited to
46 housing, educational, medical care, legal, mental health, and substance
47 and alcohol abuse services. Where such program concludes that such home-
48 less youth would be eligible for assistance, care or services from a
49 local social services district, it shall assist such youth in securing
50 such assistance, care or services;

51 (d) for a homeless youth whose service plan involves independent
52 living, provide practical assistance in achieving independence, either
53 through direct provision of services or through written agreements with
54 other community and public agencies for the provision of services in the
55 following areas; high school education or high school equivalency educa-
56 tion; higher education assessment; job training and job placement; coun-

1 selling; assistance in the development of socialization skills; guidance
2 and assistance in securing housing appropriate to needs and income; and
3 training in the development of skills necessary for responsible inde-
4 pendent living, including but not limited to money and home management,
5 personal care, and health maintenance; and

6 (e) provide such reports and data as specified by the ~~[division for~~
7 ~~youth]~~ office of children and family services.

8 § 18. Section 532-e of the executive law, as amended by chapter 800 of
9 the laws of 1985, subdivision (a) as separately amended by chapter 677
10 of the laws of 1985, subdivision (b) as amended by chapter 32 of the
11 laws of 1992, subdivision (e) as amended by chapter 451 of the laws of
12 1992, and subdivision (g) as added by chapter 569 of the laws of 1994,
13 is amended to read as follows:

14 § 532-e. Powers and duties of the ~~[division for youth]~~ office of chil-
15 dren and family services. The ~~[division for youth]~~ office of children
16 and family services shall: (a) visit, inspect and make periodic reports
17 on the operation and adequacy of approved runaway programs and transi-
18 tional independent living support programs;

19 (b) certify residential facilities providing care to runaway and/or
20 homeless youth, provided, however, that no certification shall be issued
21 or renewed until it can be demonstrated that a program operated pursuant
22 to this article has consistent with appropriate collective bargaining
23 agreements and applicable provisions of the civil service law, developed
24 and implemented a procedure for reviewing and evaluating the backgrounds
25 of and the information supplied by any person applying to be an employ-
26 ee, volunteer or consultant, which shall include but not be limited to
27 the following requirements: that the applicants set forth his or her
28 employment history, provide personal and employment references and sign
29 a sworn statement indicating whether the applicant, to the best of his
30 or her knowledge, has ever been convicted of a crime in this state or
31 any other jurisdiction;

32 (c) maintain a register of approved runaway programs, transitional
33 independent living support programs and runaway and homeless youth
34 service coordinators;

35 (d) submit to the governor and legislature an annual report detailing
36 the numbers and characteristics of runaway and otherwise homeless youth
37 throughout the state and their problems and service needs;

38 (e) develop ~~[jointly with the department of social services]~~ and
39 promulgate in consultation with county youth bureaus and organizations
40 or programs which have had past experience dealing with runaway and
41 homeless youth, regulations concerning the coordination and ~~[integraen]~~
42 integration of services available for runaway and otherwise homeless
43 youth and prohibiting the disclosure or transferal of any records
44 containing the identity of individual youth receiving services pursuant
45 to this section, without the written consent of the youth; and

46 (f) develop and promulgate regulations in consultation with the
47 ~~[department of social services]~~ office of temporary and disability
48 assistance concerning the provision of services by transitional inde-
49 pendent living support programs consistent with the provisions of this
50 article.

51 (g) in conjunction with the commissioner of education, develop and
52 annually review a plan to ensure coordination and access to education
53 for homeless children, in accordance with the provisions of section
54 thirty-two hundred nine of the education law, and monitor compliance of
55 residential programs for runaway and homeless youth with such plan.

56 § 19. This act shall take effect immediately.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF SOCIAL SERVICES

Emergency Assistance to Needy Families

PROPOSAL

Change existing state law-SSL 350J and 18 NYCRR 352.6, 18 NYCRR 352.7 and 18 NYCRR 370.3) to include late fees and legal fees to evict or foreclose as a reimbursable cost to prevent homelessness.

JUSTIFICATION

The Emergency Assistance for needy Families (EAF) scope excludes legal fees to evict and the legal costs of mortgage holders who begin foreclosure actions because they are not specifically shelter payments. Suffolk has a limited amount of emergency housing resources available and the department must have all tools available to retain as much permanent housing as possible. A family facing an eviction or foreclosure is a family in need of emergency assistance and should qualify for EAF funds for fees and legal costs to prevent homelessness.

FISCAL IMPACT

The Suffolk County average Temporary Assistance to Needy Families (TANF) family cost, including all, is \$1,400/mo. The average homeless family cost, including all, is \$5,100/mo. The annualized gross savings realized by preventing one family per month from becoming homeless is as follows: 12 families x \$3,700 x 12 months = \$532,800 annualized gross savings.

BACKGROUND & STATISTICS

Suffolk County has a serious problem with homelessness. Under the scope/limitations to EAF, up to six months shelter arrears payment can be made in excess of the shelter standard when a Temporary Assistant (TA) client is faced with eviction. Payments for legal fees to evict and legal costs to foreclose cannot be paid under the present law resulting in the loss of permanent housing and TA clients becoming homeless.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

CORNELL COOPERATIVE EXTENSION

224 FUNDING

PROPOSAL

Restore full funding (\$242,679) of 224 Funds, which is the source of New York State's funds for Cooperative Extension Associations throughout the state.

JUSTIFICATION

The 224 Funding is important to support Extension Association operations throughout Suffolk County. Extension provides services for the agricultural industry, marine industry, family and consumer sciences and 4-H Youth Development. The 224 funds are important to Suffolk County and Cornell Cooperative Extension. We would like to be assured that they will be recommended in the 2004-2005 State budget, if possible at the full formula level.

FISCAL IMPACT

This proposal, if enacted, would provide Cornell Cooperative Extension with an additional \$62,000 in funding.

BACKGROUND & STATISTICS

New York State has provided funding for Cooperative Extension Associations throughout New York State through what is called 224 funds. These funds are formula driven and have not been fully funded for the last several years. It would take an additional \$500,000 for the State to meet the full funding level of the 224 funding formula for the entire State. Suffolk County now receives \$188,000 based on our formula but would stand to receive additional funding in the amount of \$62,000, if the full funding level of \$500,000 were restored.

LEGISLATIVE HISTORY

In 2003, 224 Funds for the Cornell Cooperative Extension were targeted last year for elimination but then restored in the final legislative budget.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF PUBLIC WORKS

Special Hauling Permits

PROPOSAL

Amend Vehicle and Traffic Law Section 385 to increase maximum fee to \$100.00 for each special hauling permit and divisible load permit issued by Suffolk County.

JUSTIFICATION

Suffolk is not permitted by State Law to issue these permits for more than ten dollars. The state, however, charges as much as \$760 for these permits. The purpose of these permits are to ensure public safety, allowing trucks transporting loads heavier than allowable by law. The Public Works Department determines the road and bridge conditions that are able to withstand the heavy loads of the trucking industry. An increase of a maximum fee up to \$100.00 per permit issued will assist in covering the administrative costs of the programs.

FISCAL IMPACT

Based on last year's figures there would be additional revenue to the County of \$25,800 for overload permits and an additional \$26,000 in blanket permits for these trucks.

BACKGROUND & STATISTICS

The Department issues two types of permits – blanket and overload. There were 258 permits during the past year for single trip, large overload, seventy-two foot trucks (i.e. house movers) that weigh 120,000 pounds. The blanket permits issued number 260 (i.e. construction equipment).

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

DEPARTMENT OF PUBLIC WORKS

Transportation Corporation Law

PROPOSAL

Amend Section 136 of the Highway Law to empower the Commissioner of the Department of Public Works to issue permits and set fees for corporations incorporated under the Transportation Corporation Law (TCL). It will also amend Section 27 of the Transportation Corporation Law to eliminate the exemption of telephone and telegraph corporations from acquiring permits and to pay fees for them pursuant to Section 136 of the Highway Law.

JUSTIFICATION

It is the Department's responsibility to provide a safe environment for vehicular and pedestrian traffic within the County right-of-way. This responsibility includes assurances that all construction and improvements, including the installation and maintenance of various types of appurtenances by any individual, corporation, municipality and/or utility are performed in a manner that meets this goal. Section 136 of the New York State Highway Law provides the legislation necessary for the County to ensure this environment for our citizens by requiring that a highway work permit be acquired from the County for any work that will be performed within the County right-of-way.

However, the problem is that Section 136 specifically excludes corporations incorporated under the TCL from having to obtain any permission from the County for work performed in a County right-of-way, thereby causing enormous potential problems at these work sites, including severe traffic congestion and safety concerns. In addition, since the County cannot regulate its' right-of-way, it is in a vulnerable position with regards to exposure to certain liabilities and claims. In addition, the County would be required to fund construction and roadway maintenance to correct resulting roadway deficiencies due to their improper methods of construction.

These laws must be technically amended to include the County as a permitting authority and provisions be made to include companies incorporated under the Transportation Corporation Law. This will assure that quality and safety are not compromised on any County Road by such companies.

FISCAL IMPACT

The amendments are expected to raise between \$50,000 and \$60,000 for the County in additional permit fees.

BACKGROUND & STATISTICS

Covered under justification section above.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

OFFICE OF THE COUNTY CLERK

Subdivision Maps

PROPOSAL

Urge New York State to amend section 335(1) of the Real Property Law, which governs procedures concerning the filing of subdivision maps with the Suffolk County Clerk's Office in order to provide for an increased filing fee of \$100.00 per map.

JUSTIFICATION

This section requires the Clerk to maintain an index of subdivision map names throughout the County, requiring each to have a unique name. County Clerk staff are required to review maps submitted for various other requisite approvals, chain of title review and verification of metes and bounds description. Currently, the Clerk's Office is authorized to charge a fee of \$10.00. Based on the amount of labor intensive man hours associated with map review and indexing, the fees should be increased.

FISCAL IMPACT

2002 fees associated with subdivision map filings were \$3,000.00. An increase as proposed would yield \$30,000 per year of County General Fund revenues.

BACKGROUND & STATISTICS

Listed above.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

OFFICE OF THE COUNTY CLERK

Marital Separation Filing Fee

PROPOSAL

Urge New York State to support an increase to the fee for filing marital separation agreements.

JUSTIFICATION

The County Clerk's Office is obligated to file and index separation agreements and maintain these records in perpetuity. The current fee is \$5.00 and has remained unchanged for many years. In order to cover the costs of processing the paperwork, labor and storage space that the Clerk's Office is obligated to provide, the fee should be increased to \$50.00.

FISCAL IMPACT

In 2003, the County Clerk's Office filed 580 separation agreements. A \$50.00 filing fee would have provided \$29,000 in revenue, instead of just \$2,900 to the County General Fund.

BACKGROUND & STATISTICS

Listed above.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

OFFICE OF THE COUNTY CLERK

Doing Business As (DBA) Certificate

PROPOSAL

Amend state law to provide that a Doing Business As (DBA) certificate expire after ten years. For viable businesses, a small renewal fee of \$10.00, could be charged and allow the Clerk's Office to obtain updated information regarding the principals of the business, updated mailing address and other pertinent information.

JUSTIFICATION

Currently, to file a business certificate, DBA or partnership, a fee of \$25.00 is required. Once this fee is paid, the business name is secured in perpetuity. Approximately 75% of the businesses go out of business in the first five years and have no obligation to contact the County Clerk's Office. As a result, the County Clerk's Office has over 600,000 business names dating back to 1900, more than half of which are no longer in existence and haven't been for years; thus, preventing anyone else from using the business names originally selected.

FISCAL IMPACT

This proposal would produce a minimum of \$250,000 in revenue to the County General Fund over the first ten years, approximately \$25,000 each year.

BACKGROUND & STATISTICS

This proposal would allow discontinued business names to be re-utilized and would allow for the update of a current list of active DBA's or partnerships. It is estimated that at least 25,000 business names would seek to renew their DBA in the first ten years.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

OFFICE OF THE COUNTY CLERK

Certificate of Abandonment

PROPOSAL

Encourage New York State to amend section 335(3) of the New York State Real Property Law to eliminate the minimum requirements of one-half acre or two contiguous lots on a file map. At the same time, the filing fee for certificates of abandonment should be increased from \$10.00 to \$100.00.

JUSTIFICATION

Currently the Clerk's Office is directed by statute to maintain an index of abandonments and such an index assists in the search of ownership chains. An increase in the fee would more accurately reflect the time and expense associated with this function, while also providing relief for property owners of areas on old file maps which fall below the present statutory minimums.

FISCAL IMPACT

The 2002 fees collected were \$1,440.00 and with the increased fee structure \$14,400.00 would be collected.

BACKGROUND & STATISTICS

Listed Above.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

OFFICE OF THE COUNTY CLERK

Electronic Filing of Court Papers

PROPOSAL

Encourage New York State to require that all Supreme Court cases, including index number and complaint, are to be filed electronically.

JUSTIFICATION

Currently, the Office of the County Clerk is participating in a pilot project with the Office of Court Administration (OCA) that would allow attorneys to purchase their Supreme Court index numbers on-line. Attorneys would be able to electronically file their summons and complaints and other related papers on-line. This newly implemented pilot project is limited to commercial and tax certiorari cases. Under this program, all records are maintained electronically on OCA's web page, relieving the County of the burden of storing and retrieving hard copies of their records. New York State needs to extend this pilot program to all Supreme Court cases to ease the burden of filing court papers and to increase the accessibility of records.

FISCAL IMPACT

None.

BACKGROUND & STATISTICS

This would reduce the County's requirement to maintain these records in hard copy taking up much needed storage space. Also, this would mean instantaneous service to all attorneys filing papers and also to the general public accessing these records. In general, it would improve the efficiency of the court and clerk systems.

LEGISLATIVE HISTORY

None.

REVENUE ENHANCEMENT CATEGORY

OFFICE OF THE COUNTY CLERK

Standardization of Fees

PROPOSAL

Urge New York State to institute a uniform filing fee for recording deeds and mortgages.

JUSTIFICATION

Currently, the fee varies and because the State has a \$3 per side per page fee, potentially each document could have a different fee. This fact imposes the labor-intensive task of counting every side of every page just to fee a document. A standard statewide fee of \$125 to record a deed or mortgage would more than suffice. This uniform fee would speed the recording, calculating, accounting and depositing of the fees.

BACKGROUND & STATISTICS

This proposal would create a uniform fee and prevent rejections of recordings for inappropriate fees. Currently, almost one-third of all land documents presented to the County Clerk's Office are rejected. The majority of the rejections consist of improper fee calculations.

FISCAL IMPACT

Revenue enhancement difficult to quantify.

LEGISLATIVE HISTORY

None.

MANAGEMENT REFORM CATEGORY

MANAGEMENT REFORM CATEGORY

DEPARTMENT OF PLANNING

Aquaculture Management Program

PROPOSAL

Support Assemblyman Thiele's legislation to amend the Environmental Conservation law in relation to ceding underwater lands at Gardiner's and Peconic bays to Suffolk County for the purpose of establishing an Aquaculture Management Program for the Cultivation of Shellfish.

JUSTIFICATION

The issue of determining where leasing for shellfish cultivation is considered to be presumptively compatible with both user and environmental concerns is at the crux of the public policy debate over aquaculture in Peconic and Gardiner's Bays. Generic discussion is not sufficient to resolve conflict raised in this debate. Completion of the survey using Geographic Information System technology and the involvement of various constituencies are crucial to the analysis and resolution of conflicts, and the identification of shellfish cultivation zones within which leasing could occur. Discussion on the pros and cons of specific "aquaculture zones" could lead to progress and contribute to the policy decision on whether or not Suffolk County should implement a leasing program.

The newly drafted legislation will modernize the requirements for Suffolk County to secure the power to lease; remove obstacles to preparing survey maps needed for lease program decision making; and will support the efficient implementation of Suffolk County's Aquaculture Leasing Program.

FISCAL IMPACT

This legislation will not impose any direct fiscal impact on Suffolk County, but it will enable the County to more efficiently conduct the survey and mapping needed under Capital Program No. 7180.

BACKGROUND & STATISTICS

Suffolk County has the authority to lease certain underwater lands in Peconic and Gardiner's bay's for shellfish cultivation pursuant to Chapter 900 of the laws of new York (1996) –An Act to cede lands underwater of Gardiner's and Peconic Bays to Suffolk County, and in relation to the management of such lands for the cultivation of shellfish. However, the County has not met the requirements in the law to exercise this authority—the completion of an underwater land survey, and passed of the necessary local law and regulatory program. Hence, no lands have been leased by the County for private shellfish farming in these bays.

In response to a directive from the County Legislature, the Survey Plan for Shellfish Cultivation Leasing in Peconic and Gardiner's Bays report was completed in April 2003. This report describes the work that needs to be completed by Suffolk County in order to

meet State law requirements for implementation of a shellfish-leasing program. This work should be implemented in three phases

- Conduct the needed survey to determine the location of underwater lands where easing could occur
- Define the structure of the leasing program itself and how it would be implemented.
- Amend the laws of 1969 Chapter 990 be amended to reflect changes in the aquaculture industry that have occurred during the 34 years since this law was enacted, and the use of current technology.

There is much more interest today in pursuing shellfish culture under a County leasing program than in the past. This interest is buttressed by recent successes in private, intensive oyster aquaculture. The East End Marine Farmers Association, a group that represents those in the business of shellfish cultivation in Peconic and Gardiner's Bays, wants to obtain secure access to underwater lands for shellfish farming by amending state laws. Some baymen oppose any form of leasing underwater land, while others want the assurance that natural shellfish beds will be off limits to leasing.

LEGISLATIVE HISTORY

Assemblyman Thiele has worked with the Suffolk County Legislature, Suffolk County Department of Planning, the East End Marine Farmers Association and community groups to draft the current legislation that addresses all of the Suffolk County Legislature's concerns. He is currently seeking out a co-sponsor for this bill and plans to introduce it shortly.

I N A S S E M B L Y

February 3, 2004

Introduced by M. of A. THIELE -- read once and referred to the Committee
on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to
ceding underwater lands at Gardiner's and Peconic bays to Suffolk
county for the purpose of establishing an aquaculture management
program for the cultivation of shellfish

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. Pursuant to chapter 385 of the laws
2 of 1884, as amended, and chapter 990 of the laws of 1969, the legisla-
3 ture ceded to the county of Suffolk the underwater lands of Gardiner's
4 and Peconic bays as described in such chapters and provided for a statu-
5 tory framework whereby the business of cultivating shellfish could be
6 managed and regulated. Chapter 990 of the laws of 1969 gave the county
7 of Suffolk the right to lease such underwater lands to persons engaged
8 in shellfish cultivation. Such chapter also ratified and confirmed the
9 title to underwater land grants pursuant to chapter 385 of the laws
10 1884, as amended, in which taxes had been paid.

11 After more than thirty years, the county of Suffolk still has not
12 undertaken a leasing program to persons cultivating shellfish as was
13 intended by chapter 990 of the laws of 1969. Such a program has not been
14 established in spite of the fact that the potential economic benefits
15 from promoting aquaculture to the county of Suffolk and the state of New
16 York are substantial.

17 A leasing program has not been enacted by the county of Suffolk
18 because a shellfish cultivation program as permitted by the provisions
19 of chapter 990 of the laws of 1969 would be too costly and cumbersome to
20 implement. The failure to undertake an aquaculture leasing program for
21 these underwater lands in Gardiner's and Peconic bays has resulted in
22 adverse economic impacts and the loss of economic opportunity for the
23 region.

24 The county of Suffolk has worked diligently to study ways to foster
25 aquaculture in Gardiner's and Peconic bays. By Resolution 487-2001,
26 Suffolk county established a fourteen member Suffolk county aquaculture

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 committee. In June 2002 such committee issued a report entitled "Policy
2 Guidance for Suffolk County on Shellfish Cultivation in Peconic and
3 Gardiner's Bays". Such report made recommendations on policy issues
4 relating to the lease of underwater lands for the cultivation of shellf-
5 ish.

6 Based upon such report, Suffolk county approved Resolution 1229-2002

7 which directed the county's agencies to prepare a more specific survey
8 plan for shellfish cultivation leasing in Peconic and Gardiner's bays.
9 Such report was completed in April 2003. Such report, prepared by the
10 county addresses policy issues related to aquaculture, and identified
11 several changes to state law, specifically chapter 990 of the laws of
12 1969, which would be required to implement a successful aquaculture
13 leasing program. Suffolk county, by Scnsc Resolution 39-2003 requested
14 that the state make such legislative amendments. In addition, in July
15 2001, the Nature Conservancy of Long Island formed the Peconic Bay Aqua-
16 culture Advisory Committee to study and make recommendations with regard
17 to the numerous issues involved in establishing a viable and environ-
18 mentally sustainable aquaculture program in the Peconic region. This
19 advisory committee identified eighteen specific recommendations for the
20 aquaculture program. Those recommendations are incorporated as part of
21 the the findings of this act. Said recommendations will be critical to
22 the success of the county's aquaculture leasing program.

23 It is the purpose of this act to amend the existing law regarding the
24 leasing of underwater lands in Gardiner's and Peconic bays in order to
25 foster the establishment and obtain the economic benefits of a shellfish
26 cultivation leasing program consistent with established conservation
27 principles. It is also the purpose of this act to ratify, confirm, and
28 clarify the rights to cultivate shellfish underwater land grants issued
29 under previous statutes.

30 S 2. The environmental conservation law is amended by adding a new
31 section 13-0302 to read as follows:

32 S 13-0302. LEASE OF UNDERWATER LANDS IN GARDINER'S AND PECONIC BAYS
33 CEDED BY THE STATE TO THE COUNTY OF SUFFOLK FOR SHELLFISH
34 CULTIVATION.

35 1. LEASES. SUFFOLK COUNTY MAY LEASE LANDS UNDER WATER CEDED TO IT BY
36 THE STATE FOR THE PURPOSE OF SHELLFISH CULTIVATION.

37 A. LEASES MAY BE ISSUED ONLY WITHIN AREAS DESIGNATED AS AQUACULTURE
38 ZONES ON A MAP OR MAPS TO BE PREPARED AND APPROVED BY THE COUNTY OF
39 SUFFOLK.

40 B. NO LEASE SHALL BE GRANTED EXCEPT UPON WRITTEN APPLICATION ON FORMS
41 FURNISHED BY THE COUNTY OF SUFFOLK, AND PROPERLY EXECUTED AND SIGNED BY
42 THE APPLICANT.

43 C. BEFORE A LEASE IS APPROVED, NOTICE SHALL BE PROVIDED FOR AT LEAST
44 TWO MONTHS BY POSTING SUCH NOTICE AT THE BUREAU OF MARINE RESOURCES IN
45 THE DEPARTMENT, THE OFFICE OF THE COUNTY CLERK, AND THE OFFICE OF THE
46 TOWN CLERK IN WHICH ALL OR ANY PART OF THE LANDS TO BE LEASED ARE
47 LOCATED. SUCH NOTICE SHALL ALSO BE PUBLISHED IN THE OFFICIAL NEWSPAPER
48 OF THE COUNTY. THE NOTICE SHALL INCLUDE THE NAME OF THE LESSEE, THE
49 BOUNDARIES OF THE LEASE, AND THE AREA OF THE LEASE. A COPY OF THE
50 PROPOSED LEASE SHALL BE AVAILABLE FOR PUBLIC INSPECTION AND COPYING IN
51 THE OFFICE OF THE COUNTY CLERK.

52 2. ESTABLISHMENT OF AQUACULTURE ZONES. BEFORE LEASING OR USING THE
53 LANDS HEREBY CEDED TO IT, THE COUNTY OF SUFFOLK SHALL CAUSE AN ACCURATE
54 SURVEY TO BE MADE OF SUCH LANDS, AND A MAP OR MAPS TO BE PREPARED THERE-
55 FROM. SUCH MAP OR MAPS SHALL ESTABLISH AQUACULTURE ZONES WITHIN
56 GARDINER'S AND PECONIC BAYS. SUCH MAP OR MAPS SHALL BE APPROVED BY LOCAL

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1 LAW. AFTER SUCH MAP OR MAPS HAVE BEEN ADOPTED, THE COUNTY SHALL HAVE THE
2 AUTHORITY TO ISSUE LEASES FOR SHELLFISH CULTIVATION WITHIN THE AQUACUL-
3 TURE ZONES, AS PROVIDED HEREIN.

4 A. UNDERWATER LANDS WITHIN ONE THOUSAND FEET OF THE HIGH WATER MARK

5 SHALL NOT BE INCLUDED IN AN AQUACULTURE ZONE.

6 B. UNDERWATER LANDS WHERE BAY SCALLOPS ARE PRODUCED REGULARLY AND
7 HARVESTED ON A COMMERCIAL BASIS SHALL NOT BE INCLUDED IN AN AQUACULTURE
8 ZONE.

9 C. UNDERWATER LANDS WHERE THERE IS AN INDICATED PRESENCE OF SHELLFISH
10 IN SUFFICIENT QUANTITY AND QUALITY AND SO LOCATED AS TO SUPPORT SIGNIF-
11 ICANT HAND RAKING AND/OR TONGING HARVESTING SHALL NOT BE INCLUDED IN AN
12 AQUACULTURE ZONE.

13 3. REGULATIONS. THE COUNTY SHALL, BY LOCAL LAW, BEFORE LEASING ANY
14 SUCH UNDERWATER LANDS, ADOPT REGULATIONS GOVERNING:

15 A. APPLICATIONS FOR LEASES;
16 B. NOTICES TO BE GIVEN;
17 C. THE FORM AND TERMS OF LEASES;
18 D. STANDARDS FOR THE APPROVAL OR DENIAL OF LEASES;
19 E. ADMINISTRATION OF LEASES;
20 F. THE TRANSFER OR RENEWAL OF LEASES;
21 G. MARKING GROUNDS AND TESTING;
22 H. FEES;
23 I. RECORDING OF LEASES;
24 J. BONDS; AND
25 K. SUCH OTHER MATTERS AS ARE APPROPRIATE TO THE LEASING PROGRAM.

26 4. DEPARTMENT AUTHORITY. NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS
27 SECTION, THE DEPARTMENT SHALL REGULATE AND CONTROL THE USE OF CERTAIN
28 TYPES OF VESSELS AND EQUIPMENT FOR HARVESTING SHELLFISH, REQUIREMENTS
29 FOR RESEEDING, THE RIGHT TO ENTER UPON SUCH LEASED LANDS FOR RESEEDING
30 OR MAKING SHELLFISH POPULATION SURVEYS, AND ENFORCE ALL OTHER APPLICABLE
31 STATE LAWS RELATING TO SAID UNDERWATER LANDS. NOTHING IN THIS SECTION
32 SHALL BE INTERPRETED AS LIMITING THE RIGHT OF THE PUBLIC TO HARVEST WILD
33 OR NATURALLY OCCURRING SHELLFISH AS OTHERWISE PERMITTED BY STATE LAW.

34 5. DUTIES OF THE COUNTY CLERK. LEASES ISSUED PURSUANT TO THIS SECTION
35 SHALL BE RECORDED IN THE OFFICE OF THE COUNTY CLERK IN THE MANNER AND
36 FORM TO BE DETERMINED BY LOCAL LAW AS PROVIDED IN SUBDIVISION THREE OF
37 THIS SECTION.

38 6. SUMMARY PROCEEDINGS. UPON THE FAILURE OF A LESSEE TO PAY THE RENTAL
39 ON ANY DATE DUE UNDER THE TERMS OF THE LEASE OR UPON REVOCATION AS
40 PROVIDED FOR BY LOCAL LAW PURSUANT TO SUBDIVISION THREE OF THIS SECTION,
41 THE COUNTY MAY, AFTER WRITTEN NOTICE TO THE LESSEE DECLARE THE LEASE
42 CANCELLED AS OF THE DATE SET FORTH IN SUCH NOTICE, AND MAY IMMEDIATELY
43 THEREAFTER EVICT THE LESSEE FROM SUCH LANDS. THE PROVISIONS OF ARTICLE
44 SEVEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW SHALL APPLY AND
45 GOVERN THE PROCEDURE IN SUCH CASE.

46 7. DISPOSITION OF FEES AND RENTS. ALL FEES AND RENTS RECEIVED SHALL BE
47 DEPOSITED INTO THE GENERAL FUND OF THE COUNTY. HOWEVER, IN THE ALTERNA-
48 TIVE, NOTHING SHALL PROHIBIT THE COUNTY OF SUFFOLK, BY LOCAL LAW, FROM
49 ESTABLISHING A SPECIAL FUND FOR THE PROMOTION OF AQUACULTURE WHERE SUCH
50 FEES AND RENTS SHALL BE DEPOSITED.

51 8. DEFINITION. FOR THE PURPOSES OF THIS SECTION, THE TERM "GARDINER`S
52 AND PECONIC BAYS" SHALL MEAN THE WATERS OF GARDINER`S AND PECONIC BAYS
53 AND THE TRIBUTARIES THEREOF BETWEEN THE WESTERLY SHORE OF GREAT PECONIC
54 BAY AND AN EASTERLY LINE RUNNING FROM THE MOST EASTERLY POINT OF PLUM
55 ISLAND TO GOFF POINT AT THE ENTRANCE OF NAPEAGUE HARBOR.

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1 S 3. The sale of lands under the waters defined in subdivision 8 of
2 section 13-0302 of the environmental conservation law, as added by
3 section two of this act, by the commissioners of shell fisheries, in

4 accordance with the provisions of chapter 385 of the laws of 1884, as
5 amended, subsequently ratified and confirmed pursuant to the provisions
6 of chapter 990 of the laws of 1969, and the lease of lands by the county
7 of Suffolk in accordance with the provisions of chapter 990 of the laws
8 of 1969, subsequently held and used by the grantees, heirs, successors,
9 and assigns on which all taxes and assessments have been paid, are here-
10 by ratified and confirmed. Said grants shall not be eligible for lease
11 unless said lands escheat or revert to the state and are ceded to the
12 county, as provided in this act. All other lands under such waters,
13 which pursuant to such chapters, have escheated or reverted to the
14 state, are hereby ceded to Suffolk county for the purposes of the culti-
15 vation of shellfish, subject to existing valid grants and easements;
16 provided however, that nothing in this act shall interfere with the
17 right of the commissioner of general services to grant lands and ease-
18 ments under water to owners of adjacent uplands, pursuant to the
19 provisions of the public lands law, or of the legislature to make such
20 grants without regard to upland ownership, and to grant franchises to
21 utilities, municipalities and governmental, educational, or scientific
22 bodies for cables, outfalls, ecological studies, and experimentation
23 with controlled marine life. If, hereafter, such lands as are now in
24 private ownership, escheat or revert to the state, they are hereby as of
25 such time ceded to Suffolk county for the purposes of the cultivation of
26 shellfish. Such grants of land as well as leases issued pursuant to this
27 act shall permit the cultivation and harvesting of all species of
28 shellfish regulated by the state pursuant to the environmental conserva-
29 tion law subject to any regulations or conditions imposed by the county
30 of Suffolk pursuant to this act.

31 S 4. Effect of other laws. Any provision of chapter 385 of the laws of
32 1884, as amended, or chapter 990 of the laws of 1969, or any other
33 general or special law to the contrary notwithstanding, this act shall
34 be controlling, but all other provisions of such laws, specific, gener-
35 al, or special, not inconsistent herewith shall remain in full force and
36 effect.

37 S 5. If any clause, sentence, paragraph, section or part of this act
38 shall be adjudged by any court of competent jurisdiction to be invalid,
39 such judgment shall not affect, impair or invalidate the remainder ther-
40 eof, but shall be confined in its operation to the clause, sentence,
41 paragraph, section or part thereof directly involved in the controversy
42 in which such judgment shall have been rendered.

43 S 6. This act shall take effect immediately.

**MEMORIALIZING RESOLUTION REQUESTING
STATE OF NEW YORK TO MODIFY SUFFOLK
COUNTY AQUACULTURE LEASING PROGRAM**

WHEREAS, Resolution No. 487-2001 established a fourteen (14) member Aquaculture Committee to issue a report regarding a dispute over the status of aquaculture beds in the area between Peconic Bay and Gardiners Bay and, in particular, Suffolk County's role under Chapter 990 of the LAWS OF NEW YORK (1969) and its related predecessor acts; and

WHEREAS, the dispute involved outstanding taxes owed on such underwater properties; the role of Suffolk County in managing such land; and the status of the aquaculture industry on Long Island; and

WHEREAS, a report was issued by the Suffolk County Aquaculture Committee in June 2002, concluding that State law now requires compliance with certain requirements before Suffolk County may lease or use the underwater lands that were ceded to it by the State of New York in an area that extends from the mouth of the Peconic River east to a line running from the most easterly point of Plum Island to Goff Point, at the entrance of Napeague Harbor, as follows:

- A.) Suffolk County must survey the land and prepare maps from the survey showing:
 - 1.) Town boundary lines in Gardiners and Peconic Bays;
 - 2.) Ordinary high water mark and a line located 1,000 feet seaward of same;
 - 3.) Location of existing grants, easements, franchises and cable lines;
 - 4.) Federally designated fish trap areas;
 - 5.) Underwater lands presently privately owned for the purpose of oyster cultivation;
 - 6.) Areas where bay scallops are produced regularly and harvested on a commercial basis;
 - 7.) Structures on the land and federal aids to navigation that are useful for taking ranges and determining points on the surface of the waters; and
 - 8.) Proposed plots for leasing and location of buoy markers.
- B.) A local law must then be enacted, which contains regulations governing at least the following items:

- 1.) lease applications, required notices, and fees for filing applications, maps and documents;
- 2.) the form, terms, transfer, and renewal of leases;
- 3.) re-survey and mapping where significant changes in the location of the shoreline occur, or where there are changes in range markers or navigation aids;
- 4.) the placing and maintenance of marker buoys;
- 5.) the use of lands not leased;
- 6.) the underwater lands may only be leased for the purpose of shellfish cultivation;
- 7.) limit the leasing of underwater lands only to Suffolk County residents (one year residency required);
- 8.) limit the leasing of underwater lands only in plots containing fifty (50) acres or more for a term of ten (10) years;
- 9.) the underwater lands within 1,000 of the high water shoreline are exempt from leasing
- 10.) areas where bay scallops are produced regularly and harvested on a commercial basis are exempt from leasing; and
- 11.) seventy-five percent (75%) of the lease fees received by the County must be allocated to the Towns of Riverhead, Southold, Shelter Island, Southampton, and East Hampton in an amount proportional to the leased acreage located within each town; and

WHEREAS, Resolution No. 1229-2002 directed the Planning Department, the Division of Environmental Quality within the County Department of Health Services, and the County Department of Public Works to jointly prepare a report for Implementing Aquaculture Committee Recommendations in Connection with County Shellfish Cultivation Leasing Authority (Peconic and Gardiners Bays), which report was issued in April 2003 and resulted in several recommendations for change to the enabling State legislation; now, therefore, be it

1st RESOLVED, that this Legislature hereby requests the State of New York to amend Chapter 990 of the LAWS OF NEW YORK 1969 as follows:

- 1.) Eliminate all references in the law that relate to outmoded survey technology, and substitute appropriate language pertaining to use of Global Positioning System survey techniques with appropriate accuracy levels.
- 2.) Remove the requirement to map proposed plots for leasing; it should be replaced by the mapping of shellfish cultivation zones where

shellfish leases could be issued. All other survey and mapping mandates in the law should be contemplated within this survey plan report, in order to work legally defensible.

- 3.) Remove the residency requirement as a condition for lease purchase eligibility. Remove the explicit references in the law to lease area (50 acres or more) and lease term (10 years) limits. These explicit lease stipulations reflect the extensive culture practices of the oyster industry in the past, and should be deleted. Remove the provision for sale of leases at public auction. In general, Suffolk County should have the authority to develop regulations that would govern *all* aspects of leasing, and that reflect current shellfish culture technology and practice, and user issues and concerns.
- 4.) Add provisions authorizing the County to: prepare and adopt a shellfish cultivation zone map; and to adopt a local law with regulations governing all aspects of the leasing process. The latter would include lease applications, terms, rents, size limits, conditions, cancellation/termination, renewal, procedures for lease application review and approval, lease recording, and disposition of lease rents.
- 5.) Eliminate the requirement for the County to pay 75% of the lease rents collected to the five East End towns. Lease rents should be established at an amount that does not deter legitimate shellfish farmers from participating in the lease process. Shellfish farming is a risky venture. Rents should be low enough to attract interest, but high enough to prevent frivolous applications. Lease rents in other states are very low, and do not constitute a significant source of government revenue. The same should hold for Suffolk County, which should not expect a financial windfall from issuing shellfish leases. The primary goal of a lease program should be to encourage marine-related jobs in the region.
- 6.) The NYS DEC has the authority to regulate how private shellfish culture activities in Peconic and Gardiners Bays are conducted. Regulation is accomplished through the administration of various permit programs and enforcement of the law by Environmental Conservation Officers. This includes protection of private property owned by shellfish farmers, i.e., culture gear and cultured shellfish stocks. Codification of the Suffolk County leasing program under the ENVIRONMENTAL CONSERVATION LAW would enhance Environmental Conservation Officer enforcement efforts “on the water.” This additional amendment should be supported by Suffolk County.

and be it further

2nd RESOLVED, that the Clerk of this Legislature is hereby directed to forward copies of this Resolution to Governor George E. Pataki; to the Majority Leader of the New York State Senate Joseph L. Bruno; to the Speaker of the New York State Assembly Sheldon Silver; to the Minority Leaders of the New York State Senate and the New York State Assembly; and to each member of the Long Island delegation to the New York State Legislature.

DATED: June 24, 2003

s:\memres\mr-aquaculture-leasing

MANAGEMENT REFORM CATEGORY

DEPARTMENT OF SOCIAL SERVICES

System Support for Current Medicaid Programs

PROPOSAL

Support legislation to guarantee adequate system support to local district for all current state Medicaid benefit programs including a web based system to streamline the eligibility process allowing electronic filing, screening and budgeting. Furthermore that future expansion be subject to a thorough review of the current system supporting partnership with the local districts, and if found inadequate, that the implementation, be postponed until adequate support can be provided. The system support needs to be timely as well as effective.

JUSTIFICATION

The system must be streamlined to allow for greater ease of use by district staff. The amount of time local districts must expend on systems training and systems related, quality control has increased due to complexity of the system requirements. Over 51% of new Medicaid applications are being accepted by outside groups and forwarded by mail to the local school districts resulting in serious processing delays. The facilitated enrollers do not have the access to the current Welfare management System to screen out multiple applications submissions by applicants. In our experience, applicants are applying with more than one facilitated enroller and often applying at the local district as well. A web based system accessed via the internet would increase the efficiency of both the facilitated enrollment process and the local district review/determination process by allowing electronic screening of applications and substituting electronic transmission of data for paper transmission.

FISCAL IMPACT

This proposal, if enacted, would enable Suffolk County to save funds by reducing the need to hire additional staff to process the increasing numbers of applications we are receiving.

BACKGROUND & STATISTICS

Over the past three years New York State has accelerated its history of expanding Medicaid benefit programs. Local districts are faced with a cornucopia of new programs with different eligibility criteria and resulting regulations while forced to utilize a state computer system that is inadequate to support the new programs. The current system support is a badly patched 30-year-old State computer system that was never designed to handle the complexities of current programs. Local Staff is frustrated and often intimidated with the convoluted date requirements for case openings and maintenance. Under current requirements one Medicaid application for an intact household is often split into multiple cases to satisfy the system, rather than the program requirements, resulting in unnecessary processing and maintenance workloads for districts.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 legislative agenda, no legislative action has been taken to date.

MANAGEMENT REFORM CATEGORY

OFFICE OF THE CLERK

Data Entry Standard

PROPOSAL

Adopt uniform standards (index and data entry) for all land records in County Clerk Offices throughout the state including the New York City Registrar.

JUSTIFICATION

Adoption of these standards will provide the basis of consistent public land records storage and retrieval methods throughout the state.

FISCAL IMPACT

No fiscal impact to Suffolk County.

BACKGROUND & STATISTICS

Statewide indexing and data entry standards need to be implemented for all land records. Currently, there are no uniform standards, sometimes within the same office, for indexing and data entering land documents. The ANSI is the standard model for alphanumeric indexing and data entry for public records. These standards would apply to supplemental information such as alphabetical names, addresses and document types.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 legislative agenda, no legislative action has been taken to date.

MANAGEMENT REFORM CATEGORY

OFFICE OF THE CLERK

Electronic Recording

PROPOSAL

Amend State legislation to allow for digital signatures for real estate proceedings. Although federal legislation supercedes State legislation, the State should bring its Digital Signature Act in line with federal statute. The Suffolk County Clerk's Office wants to begin an electronic pilot program for recording mortgage documents. A digital Signature Act and Electronic Recording Standards Act would ease e-commerce in the State and in Suffolk County.

JUSTIFICATION

This proposal will dramatically cut the recording time, reduce the need for staff recorders and data entry operators and allow for the instant deposit of recording fees and improve the liquidity in all real property.

FISCAL IMPACT

The fiscal impact will result in a tremendous savings to the County, at no cost to the County or the State, since the cost of equipment needed for electronic recoding will be borne by the financial institutions seeking to record electronically.

BACKGROUND & STATISTICS

Currently, State legislation does not permit digital signatures for real estate recordings in the County Clerk's Office. However, federal law does permit the use of digital signatures for real estate property recordings.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 legislative agenda, no legislative action has been taken to date.

MANAGEMENT REFORM CATEGORY

OFFICE OF THE CLERK

Form Simplification

PROPOSAL

Urge the state to require that all information required by State agencies submitted with a land instrument be collected on a single form. Land transactions frequently require the submission of multiple forms required by various New York State agencies, such as the TP584.

JUSTIFICATION

A single form would simplify and expedite land recordings.

FISCAL IMPACT

The savings of staff time needed to review these forms would speed the recording process.

BACKGROUND & STATISTICS

Since 1989, the State has required additional forms to be simultaneously filed with deeds. These forms included the TP584 (transfer tax form) and the RP5217 (equalization and assessment form). If the information contained on these two forms were combined to one form, it would simplify and expedite the recording process.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 legislative agenda, no legislative action has been taken to date.

MANAGEMENT REFORM CATEGORY

OFFICE OF THE CLERK

Form Standardization

PROPOSAL

Urge the State to adopt a standardization form for all land documents to be recorded with clerk.

JUSTIFICATION

Not only would a standardization of land documents bring some uniformity and efficiency to the recording process, but also it would ease the burden of imaging and eventually, the electronic filing of documents.

FISCAL IMPACT

The cost of a form standardization would be borne by those seeking to present the documents for recording.

BACKGROUND & STATISTICS

In the past, land documents (i.e., mortgages, satisfactions, assignments, deeds, easements, etc.) have not been standardized as to size, font, weight, margin, color, cover page, etc.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 legislative agenda, no legislative action has been taken to date.

MANAGEMENT REFORM CATEGORY

OFFICE OF THE CLERK

Numeric Index

PROPOSAL

Amend 1951 Real Property Tax Law to keep a numeric primary index for each parcel based on a tax map number assigned by the Real Property Tax Service Agency instead of alphabetically. And alphabetical index should be a secondary index, not a primary index.

JUSTIFICATION

The creation of a numeric index would make the search of property records easier and would streamline the indexing process. It is much simpler to maintain land records in Suffolk County by numeric index. Accordingly, every deed, covenant, restriction, mortgage, assignment, satisfaction, consolidation, lien, judgment, etc. could be under one numeric index so a person searching the records could see the entire history on each piece of property versus doing a separate search of each of these databases.

FISCAL IMPACT

No fiscal impact to Suffolk County.

BACKGROUND & STATISTICS

Currently, the 1951 Real Property Tax Law, which applies only to Suffolk County, requires that the County Clerk's Office maintain, as the primary index of land documents, an alpha index. An index using the names of grantors, grantees, mortgagors, mortgagees, is confusing in a county of 1.5 million people.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 legislative agenda, no legislative action has been taken to date.

MANAGEMENT REFORM CATEGORY

REAL PROPERTY TAX SERVICE AGENCY

Freedom of Information Law (FOIL)

PROPOSAL

Amend the Public Officer's Law (Freedom of Information Law) to control the commercial use of its information and to charge a reasonable fee for the distribution of this information. There will be a nominal fee associated with the documents that might result in increased difficulty to retrieve information based on an individual's lack of funds.

JUSTIFICATION

Through the development of a government cooperative of information documents will be more readily accessible and will greatly reduce the need for the formal Freedom of Information Law (FOIL) filing process.

FISCAL IMPACT

The new government cooperative and shared services would result in savings for the County.

BACKGROUND & STATISTICS

The NYS Office of Technology drafted legislation years ago to provide: for a state wide warehouse of information; a streamlined government by encouraging the exchange of information through a government cooperative; and an amendment to the Public Officer's Law that addresses the safe-guard secure use and distribution of information without the knowledge or consent of the Primary Custodian of the information. (Primary Custodian is identified as the creator of data.)

LEGISLATIVE HISTORY

None.

MANAGEMENT REFORM CATEGORY

DEPARTMENT OF SOCIAL SERVICES

Expedited Arrears Collection

PROPOSAL

Amend State Law to require that all child support orders contain wording that allows the current order to automatically become an order on arrears unless the Court specifically directs otherwise.

The change can be instituted by:

1-Amending the FCA Article 4 to require that all support orders containing wording that allows the current order to automatically become an order on arrears unless the court specially directs otherwise

2-It could also be accomplished by amending the CPLR Article 52 to provide for the use of income execution in this manner on cases that only have arrears due after the last child of the order is emancipated.

If an order of current child support for minor children is about to terminate by operation of law because of emancipation of the youngest child and the order is payable through the SCU and there are arrears due to the Department of Social Services and/or the custodial parent/obligee, the amount of that order shall automatically become an order to repay the arrears on the date of emancipation of the youngest child and shall continue at the same amount and rate until the arrears are satisfied unless the Court specially directs otherwise.

If the obligor has been able to pay the current support and has not filed a petition to modify the amount of the order, it can be assumed that they have the ability to pay off the arrears at the same rate. The obligor must continue to have the ability to petition for a downward modification with the court. Any administrative process established must provide for administrative “mistake of fact” claims procedure.

JUSTIFICATION

This suggestion is consistent with federal and state policy to have obligors pay off child support arrears as soon as possible and to provide expedited processes that avoid the requirement to return to court. This change will benefit the custodial parent/obligee by having the arrears paid off faster. It will benefit the obligor for the same reason and in addition will reduce the amount of interest that would accrue on arrears. It does not deny court intervention to an obligor who meets the criteria for a downward modification in the court order.

FISCAL IMPACT

If enacted, this proposal would increase the rate of collection of child support arrears in NYS and Suffolk County and increase the overall collection total. At present, the statewide total for child support arrearages due for all fiscal years is over \$3 billion. The

figures for Suffolk County are over \$400 million. Approximately 59% of Suffolk's custodial parents have a history of public assistance. Increasing overall collections and collections on arrears due to them, helps to keep this population self-sufficient and off the public assistance rolls.

BACKGROUND & STATISTICS

There are large amounts of cases with arrears due that no longer have current support obligations. The current obligation was paid by Income Execution against the obligor's salary, however, when the current obligation terminated, the maximum amount that can be collected under the income Execution process to pay those arrears drops to only \$50 per week.

There must be an expedited way of converting the current order into an arrears order without having to return to court. It is an onerous burden to monitor cases nearing "termination of the current support obligation and to prepare and file petitions asking the court to enter an order against the arrears so that we can continue to collect the higher amount and thus pay off the arrears more quickly.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 legislative agenda, no legislative action has been taken to date.

POLICY CHANGE CATEGORY

POLICY CHANGE CATEGORY

ECONOMIC DEVELOPMENT

Comprehensive Housing Production Preservation & Economic Stimulus Act

PROPOSAL

Suffolk County supports the enactment of state legislation S.3435 Bonacic/A.9268 Lopez which would encourage state investment into affordable housing programs. The legislation establishes a baseline of state investment in affordable housing programs to meet the state's Critical residential needs, to supplement and not reduce the state's annual appropriations for housing, and to provide an immediate stimulus as well as long-term ballast for the state's economy. It also establishes new statewide housing rehabilitation, preservation, and improvement programs flexible enough to meet the needs of renters and homeowners in all communities. In addition the legislation establishes a new statewide multi-family Housing production program reaching middle-income households in all 62 counties.

JUSTIFICATION

Statewide, two million New York state households bear the burden of having to pay more than 30% of their incomes for housing. They include 693,000 homeowners and 1.32 million tenants. They also include some 383,000 moderate-income, working families who earn between \$26,000 to \$68,000 a year who live in New York City, Westchester, Nassau, Suffolk and some upstate counties, and who bear the critical housing burden of having to pay 50% or more of their incomes for housing.

This lack of workforce housing makes it hard for local businesses to attract and retain the labor forces companies need to grow and prosper when the national economy recovers from its current downturn. Long Island's business community cites the lack of affordable housing as the major barrier to the region's continued prosperity. And, the high cost of homes and apartments makes it hard for local communities to attract and retain police, firefighters, teachers, nurses and other essential workers.

FISCAL IMPACT

It would require a \$300 million yearly state investment. It would benefit Suffolk County indirectly through more affordable homes and the ability to better attract and keep a skilled workforce.

BACKGROUND & STATISTICS

No additional statistics are available at this time.

LEGISLATIVE HISTORY

New bill assigned to Housing in the Assembly and assigned to Corporations, Authorities and Commissions in the Senate.

I N A S S E M B L Y

(PREFILED)

January 7, 2004

Introduced by M. of A. LOPEZ, GRANNIS, CYMBROWITZ, WRIGHT -- read once
and referred to the Committee on Housing

AN ACT to amend the public authorities law, the private housing finance law and the public housing law, in relation to expanding the state's investment in affordable home ownership and multi-family housing programs, to exempt affordable housing developments from sales tax, to establishing statewide housing rehabilitation and preservation programs, and to establishing a statewide affordable multi-family housing development program reaching middle-income households; and to amend the tax law, in relation to creating a neighborhood assistance program tax credit

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "comprehensive housing production, preservation, and economic stimulus act of 2003".

2 S 2. Legislative findings and purpose. It is the intent of the legislature to meet the state's need for more affordable home ownership and rental housing opportunities while simultaneously providing immediate stimulus to, and long-term ballast for, the state's economy. An expansion in the state's programs and support for the production and preservation of affordable homes and rental housing is both a social necessity and a wise financial investment in New York's families, communities, and economy. Housing and other real estate transactions generate enormous annual revenues for state government through such means as the real estate transfer tax, mortgage recording tax and surcharges, and sales tax receipts from development and construction. Two million New York households, including those of low-, moderate-, and even middle-incomes, endure serious financial burdens from high housing costs. Expanding the production of affordable homes and apartments especially in communities where shortages exist can alleviate the pressures on family finances and time that threaten the fabric of family and community life. It can meet the needs of local communities and companies to attract and retain the

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets { } is old law to be omitted.

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1 essential employees they need to serve their residents and to grow their
2 businesses. Expanding the supply of affordable apartments meets the
3 immediate needs of homeless, low-, moderate-, and middle-income families, and it provides a stepping stone to home ownership by enabling
4 families to accumulate savings for the downpayment and closing costs
5 they need to purchase their first home. Establishment of new statewide
6 home and apartment rehabilitation and preservation programs is especially

8 ly important for areas of the state where supplies of private homes and
9 apartments may be ample, but the stock is deteriorating. It can enable
10 low-income households, working families, aging seniors, the disabled,
11 and those with other special needs to remain and live independently in
12 familiar surroundings.

13 S 3. Subdivision 13 of section 2402 of the public authorities law, as
14 amended by chapter 353 of the laws of 1984, is amended to read as
15 follows:

16 (13) "Housing loan". A loan owed to a bank OR TO THE AGENCY, secured
17 in a manner satisfactory to the agency, to improve, rehabilitate, recon-
18 struct or {redevelop} DEVELOP one to four unit residences located in the
19 state{. The} OR IN THE CASE OF LOANS OWED TO THE AGENCY, TO IMPROVE,
20 REHABILITATE, OR DEVELOP AFFORDABLE MULTI-FAMILY COOPERATIVE, CONDOMIN-
21 IUM, AND RENTAL HOUSING. IF THE LOAN IS OWED TO A BANK, THE loan shall
22 be insured or guaranteed by the United States of America or any agency
23 thereof, or by a firm which is authorized by the superintendent of
24 insurance of the state of New York to issue such policies in the state.

25 S 4. The public authorities law is amended by adding a new section
26 2405-f to read as follows:

27 S 2405-F. AFFORDABLE HOUSING LOANS AND GRANTS. (1) THE AGENCY IS HERE-
28 BY DIRECTED TO ESTABLISH AN AFFORDABLE HOUSING DEVELOPMENT ACCOUNT FOR
29 THE PURPOSE OF MAKING DIRECT GRANTS AND LOANS FOR THE DEVELOPMENT OR
30 REHABILITATION OF AFFORDABLE HOMEOWNERSHIP AND MULTI-FAMILY COOPERATIVE,
31 CONDOMINIUM, AND RENTAL HOUSING FOR LOW, MODERATE, AND MIDDLE INCOME
32 PERSONS FOR WHOM THE ORDINARY OPERATION OF PRIVATE ENTERPRISE CANNOT
33 SUPPLY SAFE, SANITARY, AND AFFORDABLE HOUSING ACCOMMODATIONS. ONLY
34 MONEYS MADE AVAILABLE PURSUANT TO SECTION TWENTY-FOUR HUNDRED
35 TWENTY-NINE-B OF THIS TITLE, OR DIRECTLY APPROPRIATED BY THE STATE FOR
36 THIS PURPOSE, OR RETURNED TO THE ACCOUNT THROUGH THE REPAYMENT OF HOUS-
37 ING LOAN INTEREST OR PRINCIPAL SHALL BE CREDITED TO THIS ACCOUNT. THE
38 AFFORDABLE HOUSING DEVELOPMENT ACCOUNT SHALL BE KEPT SEPARATE FROM ALL
39 OTHER ACCOUNTS OF THE AGENCY AND SHALL NOT BE COMMINGLED WITH OTHER
40 FUNDS OF THE AGENCY.

41 (2) THE AGENCY MAY MAKE AND CONTRACT TO MAKE HOUSING LOANS AND GRANTS
42 TO ELIGIBLE APPLICANTS WHICH SUCH APPLICANTS SHALL USE TO FINANCE THE
43 CONSTRUCTION OR REHABILITATION OF AFFORDABLE HOMEOWNERSHIP AND MULTI-FA-
44 MILY COOPERATIVE, CONDOMINIUM, AND RENTAL HOUSING IN THE STATE. THE
45 HOUSING LOANS AND GRANTS MAY BE MADE ON SUCH TERMS AS THE AGENCY SHALL
46 DETERMINE, PROVIDED THAT THEY ARE MADE SOLELY WITH FUNDS AVAILABLE IN
47 THE AFFORDABLE HOUSING DEVELOPMENT ACCOUNT ESTABLISHED UNDER SUBDIVISION
48 ONE OF THIS SECTION. ANY SUCH LOAN SHALL BE SECURED BY A MORTGAGE WHICH,
49 AT THE AGENCY`S DISCRETION AND NOTWITHSTANDING THE PROVISIONS OF SUBDI-
50 VISION TWO OF SECTION TWENTY-TWO OF THE PRIVATE HOUSING FINANCE LAW, MAY
51 BE SUBORDINATE TO THE LIEN OF ANY MORTGAGE LOAN MADE BY ONE OR MORE
52 PRIVATE INVESTORS OR STATE OR MUNICIPAL AGENCIES WHICH HAVE PROVIDED, OR
53 MAY PROVIDE, FINANCING FOR SUCH AFFORDABLE HOUSING. SUCH MORTGAGE MAY
54 CONTAIN SUCH TERMS AND CONDITIONS NOT INCONSISTENT WITH THIS ARTICLE AS
55 THE AGENCY MAY DEEM NECESSARY OR DESIRABLE TO SECURE THE REPAYMENT OF
56 SUCH INDEBTEDNESS.

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1 (3) IN DETERMINING AWARDS PURSUANT TO THIS SECTION THE AGENCY SHALL
2 GIVE PREFERENCE TO APPLICATIONS BASED UPON THE EXTENT TO WHICH THE
3 PROPOSED PROGRAM OR PROJECT WILL:

4 (A) LEVERAGE PRIVATE AND OTHER PUBLIC INVESTMENT SO AS TO REDUCE THE
5 AMOUNT OF ASSISTANCE PROVIDED PURSUANT TO THIS SECTION;

6 (B) RETURN FUNDS TO THE AGENCY`S AFFORDABLE HOUSING DEVELOPMENT
7 ACCOUNT THROUGH THE REPAYMENT OF INTEREST OR PRINCIPAL; AND

8 (C) CONTRIBUTE TO THE DEVELOPMENT OF THE NEIGHBORHOOD OR COMMUNITY IN
9 WHICH THE PROGRAM OR PROJECT IS LOCATED.

10 (4) THE AGENCY MAY DELEGATE THE AUTHORITY PROVIDED TO IT BY SUBDIVI-
11 SIONS TWO AND THREE OF THIS SECTION TO THE NEW YORK STATE HOUSING
12 FINANCE AGENCY CREATED BY SECTION FORTY-THREE OF THE PRIVATE HOUSING
13 FINANCE LAW FOR THE PURPOSES OF IMPLEMENTING THIS PROGRAM ON BEHALF OF
14 THE AGENCY.

15 S 5. Subdivision 5 of section 2426 of the public authorities law, as
16 amended by chapter 112 of the laws of 2000, is amended to read as
17 follows:

18 5. "Mortgage insurance fund requirement". For any category of loans as
19 of any particular date of computation, an amount of money or cash equiv-
20 alents equal to the aggregate of (a) such insured amounts of each cate-
21 gory of loans as the agency has determined to be due and payable as of
22 such date pursuant to its contracts to insure mortgages plus (b) an
23 amount equal to twenty per centum of the amounts of each category of
24 loans insured under the agency's insurance contracts plus twenty per
25 centum of the amounts to be insured under the agency's commitments to
26 insure less the amounts payable in each category of loans pursuant to
27 paragraph (a) of this subdivision, provided, however, THAT AT THE
28 DISCRETION OF THE DIRECTORS OF THE AGENCY, THE AMOUNT INSURED OR COMMIT-
29 TED, OR PORTIONS THEREOF, SHALL NOT INCLUDE AMOUNTS SUBJECT TO REINSUR-
30 ANCE OR OTHER SIMILAR ARRANGEMENTS PROCURED BY THE AGENCY PURSUANT TO
31 SUBDIVISION SIX OF SECTION TWENTY-FOUR HUNDRED TWENTY-SEVEN OF THIS PART
32 AND PROVIDED FURTHER that if the board of directors of the agency shall
33 have established a per centum for a category of loans, or for one or
34 more loans within such categories, pursuant to subdivision seven of
35 section twenty-four hundred twenty-eight of this title, such per centum
36 shall be substituted for twenty per centum in this paragraph for such
37 category or loan, and provided further, that no such new per centum
38 shall be lower than twenty per centum. For purposes of pool insurance,
39 in no event shall the reserve requirement be less than twenty percent of
40 the amounts insured under the agency's insurance contracts.

41 S 6. Subdivision 6 of section 2427 of the public authorities law, as
42 added by chapter 788 of the laws of 1978, is amended to read as follows:

43 6. To procure insurance against any loss in connection with its prop-
44 erty and other assets and to procure reinsurance in connection with its
45 obligations, OR TO ENTER INTO SIMILAR ARRANGEMENTS WITH THE FEDERAL
46 HOUSING ADMINISTRATION OR OTHER PRIVATE ORGANIZATIONS WITH FEDERAL
47 GOVERNMENT CHARTER AND BACKING SUCH AS THE FEDERAL NATIONAL MORTGAGE
48 ASSOCIATION, WHICH PROVIDE FOR THE TRANSFER OF RISK ON ITS OBLIGATIONS
49 all in such amounts and from such insurers as it deems necessary or
50 desirable;

51 S 7. Subdivision 2 of section 41 of the private housing finance law,
52 as amended by chapter 332 of the laws of 1980, is amended to read as
53 follows:

54 2. The ordinary operations of private enterprise cannot provide an
55 adequate supply of safe and sanitary dwelling accommodations, non-
56 housekeeping accommodations, aged care accommodations and accommodations

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1 for handicapped persons at rentals which families and persons of low
2 income can afford. In order to encourage the investment of private capi-
3 tal and provide such dwelling accommodations, non-housekeeping accommo-
4 dations, aged care accommodations and accommodations for handicapped
5 persons provision should be made for mortgage loans, at low interest
6 rates, to housing companies which, subject to state regulation as to
7 rents, profits, dividends and disposition of their property, supply

8 multiple dwelling accommodations, non-housekeeping accommodations, aged
9 care accommodations and accommodations for handicapped persons, and
10 other facilities incidental or appurtenant thereto, to such families and
11 persons. For that purpose there should be created a corporate govern-
12 mental agency of the state, to be known as the "New York state housing
13 finance agency," which, through the issuance of its bonds, notes or
14 other obligations to the private investing public OR THROUGH THE USE OF
15 ITS OWN FUNDS OR OTHER REVENUES WHICH MAY BECOME AVAILABLE TO IT, may
16 attract a broad base of investment by the greatest number of the general
17 public and obtain the funds necessary to make or finance the making of
18 such mortgage loans. Thus, private capital will be encouraged to enter
19 this field of investment and will help meet the housing needs of fami-
20 lies and persons of low income. Provision should also be made for the
21 New York state housing finance agency to lease such dwelling accommo-
22 dations and to receive appropriations from the state, in aid of provid-
23 ing housing in limited profit housing company projects for persons and
24 families of low income who would otherwise be eligible for occupancy in
25 low rent public housing.

26 S 8. Section 42 of the private housing finance law is amended by
27 adding a new subdivision 6-i to read as follows:

28 6-I. "MORTGAGE LOAN" SHALL ALSO MEAN A LOAN MADE BY THE AGENCY FROM
29 FUNDS AVAILABLE IN THE AFFORDABLE HOUSING DEVELOPMENT ACCOUNT ESTAB-
30 LISHED PURSUANT TO SECTION FIFTY-NINE-J OF THIS ARTICLE. ANY SUCH LOAN
31 SHALL BE SECURED BY A MORTGAGE WHICH, AT THE AGENCY'S DISCRETION AND
32 NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF SECTION TWENTY-TWO
33 OF THIS CHAPTER, MAY BE SUBORDINATE TO THE LIEN OF ANY MORTGAGE LOAN
34 MADE BY ONE OR MORE PRIVATE INVESTORS OR STATE OR MUNICIPAL AGENCIES
35 WHICH HAVE PROVIDED, OR MAY PROVIDE, FINANCING FOR SUCH AFFORDABLE HOUS-
36 ING. SUCH MORTGAGE MAY CONTAIN SUCH TERMS AND CONDITIONS NOT INCONSIST-
37 ENT WITH THIS ARTICLE AS THE AGENCY MAY DEEM NECESSARY OR DESIRABLE TO
38 SECURE THE REPAYMENT OF SUCH INDEBTEDNESS.

39 S 9. Section 44 of the private housing finance law is amended by
40 adding a new subdivision 33 to read as follows:

41 33. USING FUNDS AVAILABLE TO THE AGENCY IN THE AFFORDABLE HOUSING
42 DEVELOPMENT ACCOUNT ESTABLISHED PURSUANT TO SECTION FIFTY-NINE-J OF THIS
43 ARTICLE, TO MAKE MORTGAGE LOANS, TO PARTICIPATE WITH THE STATE, MUNICI-
44 PAL AGENCIES, AND/OR PRIVATE LENDING INSTITUTIONS IN MAKING MORTGAGE
45 LOANS, TO UNDERTAKE COMMITMENTS TO MAKE ANY SUCH MORTGAGE LOANS, AND TO
46 MAKE GRANTS FOR THE PURPOSES OF:

47 (A) DIRECTLY FINANCING THE DEVELOPMENT OR REHABILITATION OF AFFORDABLE
48 HOMEOWNERSHIP AND MULTI-FAMILY COOPERATIVE, CONDOMINIUM, AND RENTAL
49 HOUSING FOR LOW, MODERATE, AND MIDDLE INCOME PERSONS FOR WHOM THE ORDI-
50 NARY OPERATION OF PRIVATE ENTERPRISE CANNOT SUPPLY SAFE, SANITARY, AND
51 AFFORDABLE HOUSING ACCOMMODATIONS;

52 (B) ASSISTING THE AGENCY IN FINANCING THE DEVELOPMENT OR REHABILI-
53 TATION OF SUCH HOUSING; AND

54 (C) ASSISTING RENTAL DEVELOPMENTS TO MAINTAIN RENTALS AFFORDABLE TO
55 SUCH PERSONS. THE AGENCY SHALL HAVE THE POWER TO MAKE SUCH AGREEMENTS AS
56 IT MAY DEEM APPROPRIATE TO FURTHER THE OBJECTIVES OF THIS SUBDIVISION.

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1 S 10. Section 58 of the private housing finance law, as added by chap-
2 ter 341 of the laws of 1976, is amended to read as follows:

3 S 58. Special revenue housing coverage reserve funds. (1) The agency
4 may create and establish one or more special funds to be known as
5 special revenue housing coverage reserve funds and may pay into such
6 reserve funds any monies appropriated and made available by the state
7 for the purpose of such funds and any other monies which may be made

8 available to the agency for the purposes of such funds from any other
9 source or sources. The monies held in or credited to any such fund,
10 except as hereinafter provided, shall be used solely for the payment of
11 the principal of or interest on the revenue housing bonds of the agency
12 secured by such fund as the same shall become due, whether at maturity
13 or upon call for redemption, {and} for the payment of any redemption
14 premium required to be paid when such bonds are redeemed prior to matu-
15 rity, AND, SUBJECT TO THE PROVISIONS OF ANY CONTRACT WITH NOTEHOLDERS
16 AND BONDHOLDERS, FOR THE MAKING OF TRANSFERS IN ACCORDANCE WITH SUBDIVI-
17 SION TWO OF THIS SECTION TO THE AFFORDABLE HOUSING DEVELOPMENT ACCOUNT
18 ESTABLISHED BY SECTION FIFTY-NINE-J OF THIS ARTICLE. Any income or
19 interest earned by, or increment to any such special revenue housing
20 coverage reserve fund may be used for authorized purposes including, but
21 not limited to, the addition of such income or interest earned, or
22 increment to the monies held in such fund for the purposes {herein}
23 provided IN THIS SECTION, or the repayment of appropriation expenditures
24 made to the credit of such fund, OR TRANSFERS TO THE AFFORDABLE HOUSING
25 DEVELOPMENT ACCOUNT ESTABLISHED BY SECTION FIFTY-NINE-J OF THIS ARTICLE.

26 (2) ON OR BEFORE THE FIFTEENTH DAY BEFORE THE CLOSING DATE OF THE
27 AGENCY'S FISCAL YEAR, THE BOARD OF DIRECTORS OF THE AGENCY SHALL DETER-
28 MINE THE MAXIMUM RESERVE REQUIREMENT FOR THE AGENCY'S OUTSTANDING REVENUE
29 HOUSING BONDS WHICH ARE SECURED BY ANY SPECIAL REVENUE HOUSING COVER-
30 AGE RESERVE FUND. THE MAXIMUM RESERVE REQUIREMENT SHALL MEAN, AS OF ANY
31 PARTICULAR DATE OF COMPUTATION, AN AMOUNT OF MONEY EQUAL TO THE GREATEST
32 OF THE RESPECTIVE AMOUNTS, FOR THE THEN CURRENT OR ANY FUTURE FISCAL
33 YEAR OF THE AGENCY, OF ANNUAL DEBT SERVICE OF THE AGENCY ON SUCH BONDS,
34 SUCH ANNUAL DEBT SERVICE FOR ANY FISCAL YEAR BEING THE AMOUNT OF MONEY
35 EQUAL TO THE AGGREGATE OF (A) ALL INTEREST PAYABLE DURING SUCH FISCAL
36 YEAR ON SUCH BONDS AS ARE SECURED BY SPECIAL REVENUE HOUSING COVERAGE
37 RESERVE FUNDS, PLUS (B) THE PRINCIPAL AMOUNT OF ALL SUCH BONDS AS ARE
38 SECURED BY SPECIAL REVENUE HOUSING COVERAGE RESERVE FUNDS, PLUS (C) THE
39 AMOUNT OF ALL ANNUAL SINKING FUND PAYMENTS PAYABLE DURING SUCH FISCAL
40 YEAR WITH RESPECT TO ANY SUCH BONDS AS ARE SECURED BY SPECIAL REVENUE
41 HOUSING COVERAGE RESERVE FUNDS. THE ANNUAL SINKING FUND PAYMENT SHALL
42 MEAN THE AMOUNT OF MONEY SPECIFIED IN THE RESOLUTION AUTHORIZING TERM
43 BONDS AS PAYABLE INTO A SINKING FUND DURING A PARTICULAR FISCAL YEAR FOR
44 THE RETIREMENT OF TERM BONDS WHICH MATURE AFTER SUCH FISCAL YEAR, BUT
45 SHALL NOT INCLUDE ANY AMOUNT PAYABLE BY REASON ONLY OF THE MATURITY OF
46 THE BOND. ANY INCOME OR INTEREST EARNED BY, OR INCREMENT TO, SPECIAL
47 REVENUE HOUSING COVERAGE RESERVE FUNDS DUE TO THE INVESTMENT THEREOF, OR
48 ANY AMOUNT IN EXCESS OF THE MAXIMUM RESERVE FUND REQUIREMENT, AS DEFINED
49 ABOVE, MAY BE TRANSFERRED BY THE AGENCY TO THE AFFORDABLE HOUSING DEVELOPMENT
50 ACCOUNT ESTABLISHED BY SECTION FIFTY-NINE-J OF THIS ARTICLE
51 PROVIDED THAT SUCH TRANSFERS DO NOT REDUCE THE AMOUNT OF MONEYS IN THE
52 SPECIAL REVENUE HOUSING COVERAGE RESERVE FUNDS BELOW THE MAXIMUM RESERVE
53 FUND REQUIREMENT AND PROVIDED FURTHER THAT THE AGGREGATE AMOUNT OF SUCH
54 TRANSFERS SHALL NOT EXCEED THE SUM OF TWO HUNDRED MILLION DOLLARS.

55 S 11. The private housing finance law is amended by adding a new
56 section 59-j to read as follows:

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1 S 59-J. AFFORDABLE HOUSING LOANS AND GRANTS. (1) THE AGENCY IS HEREBY
2 DIRECTED TO CREATE AND ESTABLISH A SPECIAL ACCOUNT TO BE KNOWN AS THE
3 "AFFORDABLE HOUSING DEVELOPMENT ACCOUNT" FOR THE PURPOSES OF:

4 (A) MAKING DIRECT GRANTS AND MORTGAGE LOANS FOR THE DEVELOPMENT OR
5 REHABILITATION OF AFFORDABLE HOMEOWNERSHIP AND MULTI-FAMILY COOPERATIVE,
6 CONDOMINIUM, AND RENTAL HOUSING FOR LOW, MODERATE, AND MIDDLE INCOME
7 PERSONS FOR WHOM THE ORDINARY OPERATION OF PRIVATE ENTERPRISE CANNOT

8 SUPPLY SAFE, SANITARY, AND AFFORDABLE HOUSING ACCOMMODATIONS;
 9 (B) ASSISTING THE AGENCY IN FINANCING THE DEVELOPMENT OR REHABILI-
 10 TATION OF SUCH HOUSING; AND
 11 (C) ASSISTING RENTAL DEVELOPMENTS TO MAINTAIN RENTALS AFFORDABLE TO
 12 SUCH PERSONS. ONLY MONEYS MADE AVAILABLE PURSUANT TO SECTION FIFTY-EIGHT
 13 OF THIS ARTICLE, OR DIRECTLY APPROPRIATED BY THE STATE FOR THIS PURPOSE,
 14 OR RETURNED TO THE ACCOUNT THROUGH THE REPAYMENT OF INTEREST OR PRINCIPAL
 15 ON MORTGAGE LOANS AND GRANTS MADE FROM THIS ACCOUNT SHALL BE CREDITED
 16 TO THIS ACCOUNT. THE AFFORDABLE HOUSING DEVELOPMENT ACCOUNT SHALL BE
 17 KEPT SEPARATE FROM ALL OTHER ACCOUNTS OF THE AGENCY AND SHALL NOT BE
 18 COMMINGLED WITH OTHER FUNDS OF THE AGENCY.
 19 (2) THE AGENCY MAY MAKE AND CONTRACT TO MAKE MORTGAGE LOANS AND GRANTS
 20 TO ELIGIBLE APPLICANTS WHICH SUCH APPLICANTS SHALL USE FOR THE PURPOSES
 21 IDENTIFIED IN SUBDIVISION ONE OF THIS SECTION. THE HOUSING LOANS AND
 22 GRANTS MAY BE MADE ON SUCH TERMS AS THE AGENCY SHALL DETERMINE, PROVIDED
 23 THAT THEY ARE MADE SOLELY WITH FUNDS AVAILABLE IN THE AFFORDABLE HOUSING
 24 DEVELOPMENT ACCOUNT ESTABLISHED UNDER SUBDIVISION ONE OF THIS SECTION.
 25 ANY SUCH LOAN SHALL BE SECURED BY A MORTGAGE WHICH, AT THE AGENCY'S
 26 DISCRETION AND NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF
 27 SECTION TWENTY-TWO OF THIS CHAPTER, MAY BE SUBORDINATE TO THE LIEN OF
 28 ANY MORTGAGE LOAN MADE BY ONE OR MORE PRIVATE INVESTORS OR STATE OR
 29 MUNICIPAL AGENCIES WHICH HAVE PROVIDED, OR MAY PROVIDE, FINANCING FOR
 30 SUCH AFFORDABLE HOUSING. SUCH MORTGAGE MAY CONTAIN SUCH TERMS AND CONDI-
 31 TIONS NOT INCONSISTENT WITH THIS ARTICLE AS THE AGENCY MAY DEEM NECES-
 32 SARY OR DESIRABLE TO SECURE THE REPAYMENT OF SUCH INDEBTEDNESS.
 33 (3) IN DETERMINING AWARDS PURSUANT TO THIS SECTION THE AGENCY SHALL
 34 GIVE PREFERENCE TO APPLICATIONS BASED UPON THE EXTENT TO WHICH THE
 35 PROPOSED PROGRAM OR PROJECT WILL:
 36 (A) LEVERAGE PRIVATE AND OTHER PUBLIC INVESTMENT SO AS TO REDUCE THE
 37 AMOUNT OF ASSISTANCE PROVIDED PURSUANT TO THIS SECTION;
 38 (B) RETURN FUNDS TO THE AGENCY'S AFFORDABLE HOUSING DEVELOPMENT
 39 ACCOUNT THROUGH THE REPAYMENT OF INTEREST OR PRINCIPAL; AND
 40 (C) CONTRIBUTE TO THE DEVELOPMENT OF THE NEIGHBORHOOD OR COMMUNITY IN
 41 WHICH THE PROGRAM OR PROJECT IS LOCATED.
 42 S 12. Section 1115 of the tax law is amended by adding a new subdivi-
 43 sion (dd) to read as follows:
 44 (DD) RECEIPTS FROM THE RETAIL SALE OF, AND CONSIDERATION GIVEN OR
 45 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, TANGIBLE PERSONAL PROPER-
 46 TY SOLD TO A CONTRACTOR, SUBCONTRACTOR, OR REPAIRMAN FOR USE IN (I)
 47 ERECTING A STRUCTURE OR BUILDING OR (II) ADDING TO, ALTERING, REPAIRING,
 48 REHABILITATING, OR IMPROVING REAL PROPERTY, PROPERTY, OR LAND, (A) WHICH
 49 IS DEVELOPED OR FINANCED, IN WHOLE OR IN PART, BY THE NEW YORK STATE
 50 HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE HOUS-
 51 ING TRUST FUND CORPORATION, THE AFFORDABLE HOUSING CORPORATION, OR THE
 52 NEW YORK CITY HOUSING DEVELOPMENT CORPORATION, OR (B) WHICH IS FINANCED,
 53 IN WHOLE OR IN PART, BY LOANS, GRANTS, OR INTEREST SUBSIDIES PROVIDED OR
 54 AUTHORIZED PURSUANT TO ARTICLES EIGHT-A, EIGHT-B AND FIFTEEN OF THE
 55 PRIVATE HOUSING FINANCE LAW, OR (C) WHICH IS DEVELOPED OR BUILT BY A
 56 COMPANY INCORPORATED PURSUANT TO ARTICLE TWO, FOUR, OR ELEVEN OF THE

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1 PRIVATE HOUSING FINANCE LAW, OR (D) WHICH IS DEVELOPED OR BUILT BY A
 2 SPONSOR AS DEFINED BY SUBDIVISION FIVE OF SECTION ELEVEN HUNDRED FIFTY-
 3 ONE OF THE PRIVATE HOUSING FINANCE LAW OR SUBDIVISION FIVE OF SECTION
 4 ELEVEN HUNDRED FIFTY-FIVE OF THE PRIVATE HOUSING FINANCE LAW.
 5 S 13. Subdivision 4 of section 22 of the public housing law, as
 6 amended by section 1 of part M of chapter 85 of the laws of 2002, is
 7 amended to read as follows:

8 4. Statewide limitation. The aggregate dollar amount of credit which
9 the commissioner may allocate to eligible low-income buildings under
10 this article shall be {four} TEN million dollars PER ANNUM. The limita-
11 tion provided by this subdivision applies only to allocation of the
12 aggregate dollar amount of credit by the commissioner, and does not
13 apply to allowance to a taxpayer of the credit with respect to an eligi-
14 ble low-income building for each year of the credit period.

15 S 14. Subdivision 3 of section 35 of the private housing finance law,
16 as amended by chapter 229 of the laws of 1989, is amended to read as
17 follows:

18 3. (A) Upon such dissolution, title to the project may be conveyed in
19 fee to the owner or owners of its capital stock or to any corporation
20 designated by it or them for the purpose, or the company may be recon-
21 stituted pursuant to appropriate laws relating to the formation and
22 conduct of corporations, provided, however, that prior to any such
23 dissolution and conveyance or reconstitution, payment shall be made of
24 all current operating expenses, taxes, indebtedness and all accrued
25 interest thereon and the par value of and accrued dividends on the
26 outstanding stock of such company. {If after making such payments, and
27 after conveyance of the project, a surplus remains in the treasury of
28 the company, such surplus, except in the case of a project aided by a
29 state loan made after May first, nineteen hundred fifty-nine, shall upon
30 dissolution, be paid into the general fund of the municipality which
31 granted tax exemption.} After such dissolution and conveyance, or such
32 reconstitution, the provisions of this article shall become and be inap-
33 plicable to any such project and its owner or owners and any tax
34 exemption granted with respect to such project pursuant to section thir-
35 ty-three hereof shall cease and terminate.

36 (B) IF AFTER MAKING SUCH PAYMENTS, AND AFTER CONVEYANCE OF THE
37 PROJECT, A SURPLUS REMAINS IN THE TREASURY OF THE COMPANY, SUCH SURPLUS
38 SHALL, UPON DISSOLUTION: (I) IN THE CASE OF A PROJECT WHICH IS AIDED BY
39 A STATE LOAN MADE AFTER MAY FIRST, NINETEEN HUNDRED FIFTY-NINE, BE PAID
40 INTO THE NEW YORK STATE HOUSING FINANCE AGENCY`S AFFORDABLE HOUSING
41 DEVELOPMENT ACCOUNT ESTABLISHED PURSUANT TO SECTION FIFTY-NINE-J OF
42 THIS CHAPTER; (II) IN THE CASE OF A PROJECT WHICH IS NOT AIDED BY A
43 STATE LOAN MADE AFTER MAY FIRST, NINETEEN HUNDRED FIFTY-NINE AND WHICH
44 IS LOCATED IN A MUNICIPALITY WITH A POPULATION OF LESS THAN ONE MILLION,
45 BE PAID INTO THE GENERAL FUND OF THE MUNICIPALITY WHICH GRANTED TAX
46 EXEMPTION; AND (III) IN THE CASE OF A PROJECT WHICH IS NOT AIDED BY A
47 STATE LOAN MADE AFTER MAY FIRST, NINETEEN HUNDRED FIFTY-NINE AND WHICH
48 IS LOCATED IN A MUNICIPALITY WITH A POPULATION OF ONE MILLION OR MORE,
49 BE PAID INTO THE "SPECIAL FUNDS ACCOUNT" ESTABLISHED AND USED BY THE
50 HOUSING ASSISTANCE CORPORATION SUBSIDIARY OF THE NEW YORK CITY HOUSING
51 DEVELOPMENT CORPORATION, CREATED BY SECTION SIX HUNDRED FIFTY-FOUR-B OF
52 THIS CHAPTER, FOR THE PURPOSES OF ASSISTING RENTAL DEVELOPMENTS TO MAIN-
53 TAIN RENTALS AFFORDABLE TO LOW AND MODERATE INCOME PERSONS FOR WHOM THE
54 ORDINARY OPERATION OF PRIVATE ENTERPRISE CANNOT SUPPLY SAFE, SANITARY
55 AND AFFORDABLE HOUSING ACCOMMODATIONS, OR OF TRANSFERRING, LENDING,
56 PLEDGING OR ASSIGNING MONIES TO ANY RENTAL DEVELOPMENT IN ORDER TO

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1 ASSIST SUCH DEVELOPMENT IN MAINTAINING RENTS AFFORDABLE TO SUCH LOW AND
2 MODERATE INCOME TENANTS, OR OF ASSISTING THE CORPORATION IN FINANCING
3 SUCH DEVELOPMENTS, OR, IN THE ABSENCE OF SUCH AN ACCOUNT, INTO THE
4 GENERAL FUND OF THE MUNICIPALITY WHICH GRANTED TAX EXEMPTION.

5 (C) AFTER SUCH DISSOLUTION AND CONVEYANCE, OR SUCH RECONSTITUTION, THE
6 PROVISIONS OF THIS ARTICLE SHALL BECOME AND BE INAPPLICABLE TO ANY SUCH
7 PROJECT AND ITS OWNER OR OWNERS AND ANY TAX EXEMPTION GRANTED WITH

8 RESPECT TO SUCH PROJECT PURSUANT TO SECTION THIRTY-THREE OF THIS ARTICLE
9 SHALL CEASE AND TERMINATE.

10 S 15. Section 450 of the private housing finance law, as amended by
11 chapter 273 of the laws of 1975, is amended to read as follows:

12 S 450. Policy and purposes of article. It is hereby declared that
13 there exists in municipalities in this state a seriously inadequate
14 supply of safe and sanitary dwelling accommodations; that such shortage
15 constitutes an emergency and a grave menace to the health, safety,
16 morals, welfare and comfort of citizens of this state; that existing
17 conditions of deterioration of housing marked by noncompliance with the
18 multiple dwelling law or local housing codes threaten a further decrease
19 in such supply; that rehabilitation and improvement of dwellings to
20 prolong the useful life of such dwellings may be necessary to arrest
21 such conditions of deterioration; that the elimination of such condi-
22 tions by rehabilitation or other improvement cannot readily be provided
23 by the ordinary unaided operation of private enterprise without public
24 aid in the form of low interest loans to owners of such multiple dwell-
25 ings; that such rehabilitation or other improvement of such dwellings to
26 bring them into conformance with the multiple dwelling law and local
27 housing codes is a public use, a public purpose and a city purpose for
28 which public money may be loaned by a municipality OR OTHER QUALIFIED
29 ENTITY and for which indebtedness may be contracted by a municipality OR
30 OTHER QUALIFIED ENTITY; that such conditions require the provisions
31 hereinafter enacted, and the necessity in the public interest for the
32 provisions hereinafter enacted is hereby declared as a matter of legis-
33 lative determination.

34 S 16. Subdivision 1 of section 451 of the private housing finance law,
35 as amended by chapter 848 of the laws of 1980, is amended to read as
36 follows:

37 1. "Existing multiple dwelling." Any dwelling classified as a multiple
38 dwelling pursuant to the multiple dwelling law and in existence on the
39 date upon which an application for a loan pursuant to this article is
40 received by the municipality OR OTHER QUALIFIED ENTITY. For purposes of
41 this article an existing multiple dwelling shall be deemed to include
42 any garden-type maisonette dwelling project consisting of a series of
43 dwelling units which together and in their aggregate were arranged or
44 designed to provide three or more apartments and are provided as a group
45 collectively with all essential services such as, but not limited to,
46 water supply, house sewers and heat, and which are in existence and
47 operated as a unit under single ownership on the date upon which an
48 application for a loan pursuant to this article is received by the muni-
49 cipality OR OTHER QUALIFIED ENTITY, notwithstanding that certificates of
50 occupancy were issued for portions thereof as private dwellings.

51 S 17. Section 451 of the private housing finance law is amended by
52 adding a new subdivision 5 to read as follows:

53 5. "QUALIFIED ENTITY." ANY CITY, TOWN, VILLAGE OR COUNTY; ANY
54 NOT-FOR-PROFIT NEIGHBORHOOD HOUSING SERVICES CORPORATION,
55 COMMUNITY-BASED DEVELOPMENT CORPORATION, LOCAL DEVELOPMENT CORPORATION,
56 HOUSING DEVELOPMENT CORPORATION, NEIGHBORHOOD PRESERVATION COMPANY,

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1 RURAL PRESERVATION COMPANY, OR COMMUNITY DEVELOPMENT FINANCIAL INSTITU-
2 TION; THE COMMUNITY PRESERVATION CORPORATION; NEW YORK STATE HOUSING
3 FINANCE AGENCY; NEW YORK STATE AFFORDABLE HOUSING CORPORATION; STATE OF
4 NEW YORK MORTGAGE AGENCY; AND, A BANKING ORGANIZATION AS DEFINED BY
5 SUBDIVISION TWO OF SECTION FOUR HUNDRED SEVENTY-ONE OF THIS CHAPTER.

6 S 18. Subdivision 1 of section 452 of the private housing finance law,
7 as amended by chapter 923 of the laws of 1983, is amended to read as

8 follows:

9 1. Notwithstanding the provisions of any general, special or local
10 law, a municipality OR OTHER QUALIFIED ENTITY is hereby authorized to
11 make or contract to make loans to the owners of existing multiple dwell-
12 ings within its territorial limits, subject to the limitations in subdi-
13 vision two of this section, for the elimination of any substandard or
14 insanitary condition or conditions in violation of the multiple dwelling
15 law or local housing code, or for such replacement and rehabilitation of
16 the heating, plumbing, electrical and related systems or other improve-
17 ments as shall be reasonably necessary to prolong the useful life of
18 such dwellings, OR FOR THE INSTALLATION OF EQUIPMENT, REPAIRS, AND
19 IMPROVEMENTS TO ADAPT DWELLING UNITS AND COMMON SPACES TO USE AND OCCU-
20 PANCY BY THOSE WITH PHYSICAL DISABILITIES, and may make temporary loans
21 to such owners in anticipation of the permanent {municipal} loans FROM A
22 MUNICIPALITY OR OTHER QUALIFIED ENTITY for such purposes. IF A QUALI-
23 FIED ENTITY DETERMINES THAT IT LACKS THE ADMINISTRATIVE CAPACITY TO MAKE
24 AND ADMINISTER SUCH LOANS, IT IS AUTHORIZED TO CONTRACT WITH ANOTHER
25 QUALIFIED ENTITY TO MAKE, CONTRACT TO MAKE, AND ADMINISTER SUCH LOANS ON
26 ITS BEHALF.

27 S 19. Subdivision 3 of section 452 of the private housing finance law,
28 as amended by chapter 273 of the laws of 1975, is amended to read as
29 follows:

30 3. The supervising agency in its discretion may require that the owner
31 execute a financing statement for real property improvement to be in
32 such form as the agency shall specify and to contain the following
33 information: the name and mailing address of the owner, the address of
34 the real property, a statement that a loan has been made by the munici-
35 pality OR OTHER QUALIFIED ENTITY under this article, the amount and
36 duration thereof and the applicable interest rate. Said financing state-
37 ment shall be filed without charge in the office for recording mortgages
38 of real property and from the date of such filing the municipality OR
39 OTHER QUALIFIED ENTITY shall have a lien against said real property for
40 the amount advanced or so much thereof as remains unpaid and interest
41 thereon. If a financing statement is filed as herein provided, the
42 rights and remedies of the municipality OR OTHER QUALIFIED ENTITY and
43 the priority of its lien shall be the same as those of a holder of a
44 lien for the materials furnished or labor performed in the improvement
45 of real property pursuant to articles two and three of the lien law,
46 except that the lien shall be valid for one year after the maturity date
47 of the final installment payable under said note and thereafter as
48 provided in section seventeen of the lien law. Upon payment of all sums
49 advanced by the municipality OR OTHER QUALIFIED ENTITY and interest
50 thereon and upon demand of the then record owner of the real property,
51 the agency shall deliver to him a copy of the financing statement with
52 an endorsement thereon that the lien is satisfied; upon filing of such
53 copy in the office where the financing statement was filed and upon
54 payment of the proper fee therefor, the lien of such financing statement
55 shall be discharged.

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1 S 20. Subdivision 5 of section 452 of the private housing finance law,
2 as amended by chapter 273 of the laws of 1975, is amended to read as
3 follows:

4 5. The supervising agency may charge the owner of such existing multi-
5 ple dwelling reasonable fees for financing, regulation, supervision and
6 audit. Such fees shall be kept by the municipality OR OTHER QUALIFIED
7 ENTITY in a separate fund to be known as the article {VIII-A} EIGHT-A
8 housing rehabilitation fund and shall be used to help meet the expenses

9 of the municipality OR OTHER QUALIFIED ENTITY in administering and
10 carrying out the provisions of this article.

11 S 21. Subdivision 8 of section 452 of the private housing finance law,
12 as amended by chapter 371 of the laws of 1987, is amended to read as
13 follows:

14 8. Notwithstanding the provisions of, or any regulation promulgated
15 pursuant to, the emergency housing rent control law, the local emergency
16 housing rent control act, the emergency tenant protection act of nine-
17 teen seventy-four, or any local law enacted pursuant thereto, upon
18 completion of the rehabilitation of a class B multiple dwelling, class A
19 multiple dwelling used for single room occupancy purposes, lodging house
20 or a substantially vacant building intended to be used after rehabili-
21 tation for single room occupancy purposes and which is aided by a loan
22 pursuant to this article made by the municipality OR OTHER QUALIFIED
23 ENTITY on or after September first, nineteen hundred eighty-five, the
24 agency shall establish the initial rent for each rental dwelling unit
25 within the multiple dwelling. All dwelling units within the multiple
26 dwelling subsequent to establishment of initial rents by the agency
27 shall be subject to the rent stabilization law of nineteen hundred
28 sixty-nine. The occupant in possession of such a dwelling unit when it
29 is made subject to the rent stabilization law of nineteen hundred
30 sixty-nine shall be offered a choice of a one or two year lease at the
31 initial rents established by the agency notwithstanding any contrary
32 provisions of, or regulations adopted pursuant to, the rent stabiliza-
33 tion law of nineteen hundred sixty-nine and the emergency tenant
34 protection act of nineteen seventy-four. The agency shall cause all
35 tenants in occupancy of each dwelling unit affected by the provisions of
36 this subdivision to be notified of and have an opportunity to comment on
37 the contemplated rehabilitation. Such notification shall advise such
38 tenants of the approximate expected rent increase and the subsequent
39 availability of a one or two year lease. Such notification and opportu-
40 nity to comment shall be provided before the rehabilitation and again
41 after the construction is completed and before the establishment of the
42 initial rents.

43 S 22. Subdivision 9 of section 452 of the private housing finance law,
44 as added by chapter 243 of the laws of 1998, is amended to read as
45 follows:

46 9. The note or note and contract issued by the owner of any such
47 multiple dwelling to secure such loan may provide that the loan shall be
48 reduced to zero commencing on the fifteenth year after the execution of
49 the note or note and contract, provided that, as of the date of such
50 reduction, the multiple dwelling has been and continues to be owned and
51 operated in a manner consistent with a regulatory agreement with the
52 municipality OR OTHER QUALIFIED ENTITY. Notwithstanding such provision
53 as contained in the note or note and contract, the loan shall be reduced
54 to zero only if, prior to or simultaneously with delivery of such note
55 or note and contract, the agency made a written determination that such
56 reduction would be necessary to ensure the continued affordability or

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1 economic viability of the multiple dwelling. Such written determination
2 shall document the basis upon which the loan was determined to be eligi-
3 ble for evaporation.

4 S 23. The opening paragraph of subdivision 1 of section 453 of the
5 private housing finance law, as added by chapter 924 of the laws of
6 1970, is amended to read as follows:

7 No such loan shall be made by a municipality OR OTHER QUALIFIED ENTITY
8 to an owner of an existing multiple dwelling unless the owner of such

9 multiple dwelling shall covenant in writing that so long as any part of
10 such loan shall remain unpaid:

11 S 24. Paragraphs (c) and (d) of subdivision 1 of section 453 of the
12 private housing finance law, as amended by chapter 273 of the laws of
13 1975, are amended to read as follows:

14 (c) All persons operating or managing such multiple dwelling will
15 permit the duly authorized officers, employees, agents or inspectors of
16 the municipality OR OTHER QUALIFIED ENTITY to enter in or upon and
17 inspect such multiple dwelling at all reasonable hours; and

18 (d) The municipality OR OTHER QUALIFIED ENTITY by such duly authorized
19 representatives as aforesaid shall have full power to investigate into
20 and order the owner of such multiple dwelling to furnish such reports
21 and information as it may require concerning such rehabilitation or
22 improvement and shall have full power to audit the books of said owner
23 with respect to such matters; and

24 S 25. Subdivision 2 of section 453 of the private housing finance law,
25 as added by chapter 924 of the laws of 1970, is amended to read as
26 follows:

27 2. No such loan shall be made by a municipality OR OTHER QUALIFIED
28 ENTITY unless such owner executed an affidavit that he was unable to
29 obtain financing for such rehabilitation or improvement because of the
30 neighborhood, the age of the building, or other factors indicating an
31 inability of the private sector unaided to cause such rehabilitation or
32 improvement to be made.

33 S 26. Section 454 of the private housing finance law, as added by
34 chapter 862 of the laws of 1973, is amended to read as follows:

35 S 454. Servicing of {municipal} loans MADE PURSUANT TO THIS ARTICLE by
36 banking institutions. The municipality OR OTHER QUALIFIED ENTITY is
37 authorized to make provision, either in the loan agreement or by sepa-
38 rate agreement, for the performance by one or more banking institutions
39 of such services as are generally performed by any such bank itself
40 owning and holding such a loan and as may be approved by the banking
41 board of the state banking department, for which services a bank may
42 make and collect such service charges as the banking board shall
43 prescribe or approve.

44 S 27. The private housing finance law is amended by adding a new
45 section 458 to read as follows:

46 S 458. STATE PROGRAMS FOR REHABILITATION OF MULTIPLE-DWELLINGS. (A)
47 THERE IS ESTABLISHED WITHIN THE DIVISION OF HOUSING AND COMMUNITY
48 RENEWAL A PROGRAM WHICH SHALL MAKE GRANTS OF STATE FUNDS TO MUNICI-
49 PALITIES AND OTHER QUALIFIED ENTITIES IN JURISDICTIONS WITH POPULATIONS
50 OF MORE THAN FIFTY THOUSAND TO ENABLE THE GRANT RECIPIENTS TO MAKE AND
51 ADMINISTER LOANS TO CARRY OUT THE PURPOSES OF THIS ARTICLE. REPAYMENTS
52 OF PRINCIPAL AND INTEREST ON SUCH LOANS SHALL BE USED BY THE GRANT
53 RECIPIENTS TO MAKE AND ADMINISTER ADDITIONAL LOANS TO FURTHER THE
54 PURPOSES OF THIS ARTICLE. THE DIVISION SHALL ESTABLISH A SEPARATE ARTI-
55 CLE EIGHT-A HOUSING REHABILITATION FUND AND SHALL MAKE SUCH RULES AND
56 REGULATIONS AS MAY BE NECESSARY AND APPROPRIATE TO IMPLEMENT THIS

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1 PROGRAM, SELECT GRANT RECIPIENTS, AND EFFECTUATE THE PURPOSES OF THIS
2 ARTICLE.

3 (B) THERE IS ESTABLISHED WITHIN THE GOVERNOR`S OFFICE OF SMALL CITIES
4 A PROGRAM WHICH SHALL MAKE GRANTS OF STATE FUNDS TO MUNICIPALITIES AND
5 OTHER QUALIFIED ENTITIES IN JURISDICTIONS WITH POPULATIONS OF FIFTY
6 THOUSAND OR LESS TO ENABLE THE GRANT RECIPIENTS TO MAKE AND ADMINISTER
7 LOANS TO CARRY OUT THE PURPOSES OF THIS ARTICLE. REPAYMENTS OF PRINCIPAL
8 AND INTEREST ON SUCH LOANS SHALL BE USED BY THE GRANT RECIPIENTS TO MAKE

9 AND ADMINISTER ADDITIONAL LOANS TO FURTHER THE PURPOSES OF THIS ARTICLE.
10 THE OFFICE SHALL ESTABLISH A SEPARATE ARTICLE EIGHT-A HOUSING REHABILI-
11 TATION FUND AND SHALL MAKE SUCH RULES AND REGULATIONS AS MAY BE NECES-
12 SARY AND APPROPRIATE TO IMPLEMENT THIS PROGRAM, SELECT GRANT RECIPIENTS,
13 AND EFFECTUATE THE PURPOSES OF THIS ARTICLE.

14 S 28. Subdivisions 3, 4, and 11 of section 471 of the private housing
15 finance law, as amended by chapter 200 of the laws of 1997, are amended
16 and a new subdivision 13 is added to read as follows:

17 3. "Existing multiple dwelling" shall mean any dwelling classified as
18 a multiple dwelling pursuant to the multiple dwelling law or the multi-
19 ple residence law and in existence on the date upon which an application
20 for a loan pursuant to this article is received by the agency OR OTHER
21 QUALIFIED ENTITY.

22 4. "Existing private dwelling" shall mean any dwelling classified as a
23 private dwelling pursuant to the multiple dwelling law or the multiple
24 residence law and in existence on the date upon which an application for
25 a loan pursuant to this article is received by the agency OR OTHER QUAL-
26 IFIED ENTITY.

27 11. "Rehabilitation" shall mean the installation, replacement, or
28 repair of heating, plumbing, electrical and related systems or the elim-
29 ination of conditions dangerous to human life or detrimental to health,
30 including nuisances as defined in local housing or health codes or as
31 defined in section three hundred nine of the multiple dwelling law, or
32 in section three hundred five of the multiple residence law, or other
33 rehabilitation or general property and energy conservation improvements,
34 OR INSTALLATION OF EQUIPMENT, REPAIRS, AND IMPROVEMENTS TO ADAPT DWELL-
35 ING UNITS TO USE AND OCCUPANCY BY THOSE WITH PHYSICAL DISABILITIES.

36 13. "QUALIFIED ENTITY" SHALL MEAN: ANY CITY, TOWN, VILLAGE OR COUNTY;
37 ANY NOT-FOR-PROFIT NEIGHBORHOOD HOUSING SERVICES CORPORATION, COMMUNI-
38 TY-BASED DEVELOPMENT CORPORATION, LOCAL DEVELOPMENT CORPORATION, HOUSING
39 DEVELOPMENT CORPORATION, NEIGHBORHOOD PRESERVATION COMPANY, RURAL PRES-
40 ERVATION COMPANY, OR COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION; THE
41 COMMUNITY PRESERVATION CORPORATION; NEW YORK STATE HOUSING FINANCE AGEN-
42 CY; NEW YORK STATE AFFORDABLE HOUSING CORPORATION; STATE OF NEW YORK
43 MORTGAGE AGENCY; AND, A BANKING ORGANIZATION AS DEFINED BY SUBDIVISION
44 TWO OF THIS SECTION.

45 S 29. Subdivision 1 of section 472 of the private housing finance law,
46 as amended by chapter 44 of the laws of 1999, is amended to read as
47 follows:

48 1. Notwithstanding the provisions of any general, special or local
49 law, a municipality, acting through an agency, OR OTHER QUALIFIED ENTITY
50 is authorized to make, or contract to make, loans to low and moderate
51 income owner-occupants of one to four unit existing private or multiple
52 dwellings within its territorial limits, subject to the limitation of
53 subdivisions two through seven of this section, in such amounts as shall
54 be required for the rehabilitation of such dwellings, provided, however,
55 that such loans shall not exceed forty-three thousand dollars per dwell-
56 ing unit. Such loans may also include the refinancing of the outstanding

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1 indebtedness of such dwellings, and the municipality OR OTHER QUALIFIED
2 ENTITY may make temporary loans or advances to such owner-occupants in
3 anticipation of permanent loans for such purposes. IF A QUALIFIED ENTI-
4 TY DETERMINES THAT IT LACKS THE ADMINISTRATIVE CAPACITY TO MAKE AND
5 ADMINISTER SUCH LOANS, IT IS AUTHORIZED TO CONTRACT WITH ANOTHER QUALI-
6 FIED ENTITY TO MAKE, CONTRACT TO MAKE, AND ADMINISTER SUCH LOANS ON ITS
7 BEHALF.

8 S 30. Subdivision 2 of section 472 of the private housing finance law,

9 as amended by chapter 705 of the laws of 1991, is amended to read as
10 follows:

11 2. Each loan shall be evidenced by a note executed by the owner-occu-
12 pant of the existing dwelling. Repayment of each such note shall be
13 within a period of thirty years or such shorter period as the agency OR
14 OTHER QUALIFIED ENTITY shall determine, but in no event longer than the
15 useful life of the rehabilitation or improvement financed with such
16 loan. The repayment shall be made in such manner as may be provided in
17 such note and contract, if any, in connection with such loan, and may
18 authorize such owner-occupant, with the consent of the agency OR OTHER
19 QUALIFIED ENTITY, to prepay the principal of the loan subject to such
20 terms and conditions as therein provided. In order to make any such loan
21 affordable to the owner-occupant, the agency OR OTHER QUALIFIED ENTITY
22 may provide in such note and contract that all of the outstanding prin-
23 cipal of said loan may be self-liquidated over a fifteen year period of
24 owner-occupancy. Such note and contract may contain such other terms and
25 provisions not inconsistent with the provisions of this article as the
26 agency OR OTHER QUALIFIED ENTITY may deem necessary or desirable to
27 secure repayment of the loan, the interest thereon, if any, and other
28 charges in connection therewith, and to carry out the purposes and
29 provisions of this article.

30 S 31. Subdivision 3 of section 472 of the private housing finance law,
31 as amended by chapter 84 of the laws of 2001, is amended to read as
32 follows:

33 3. The agency OR OTHER QUALIFIED ENTITY in its discretion may require
34 that the owner-occupant execute, acknowledge and deliver a uniform
35 commercial code financing statement for the real property improvement to
36 be in such form as the agency OR OTHER QUALIFIED ENTITY shall specify
37 and in accordance with the requirements of section 9--502 of the uniform
38 commercial code of the state of New York. Said financing statement shall
39 be filed or recorded without charge in accordance with the provisions of
40 paragraph one of subsection (a) of section 9--501 of the uniform commer-
41 cial code, and from the date of such filing the municipality OR OTHER
42 QUALIFIED ENTITY shall have a lien against said real property improve-
43 ment for the amount advanced or so much thereof as remains unpaid
44 together with the interest thereon. Upon payment of all sums advanced by
45 the municipality OR OTHER QUALIFIED ENTITY and interest thereon, and
46 upon demand of the then record owner of the real property, the agency OR
47 OTHER QUALIFIED ENTITY shall deliver a copy of the financing statement
48 with an endorsement thereon that the lien is satisfied. Upon filing of
49 such copy in the office where the financing statement was filed and upon
50 payment of the proper fee therefor, the lien of such financing statement
51 shall be discharged.

52 S 32. Subdivisions 4 and 6 of section 472 of the private housing
53 finance law, as added by chapter 786 of the laws of 1987, are amended to
54 read as follows:

55 4. The agency OR OTHER QUALIFIED ENTITY may require the owner-occupant
56 to execute a mortgage as security for a loan in lieu of or in addition

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1 to a financing statement as provided in subdivision three of this
2 section. Such mortgage shall contain such terms and provisions not
3 inconsistent with the provisions of this article as the agency OR OTHER
4 QUALIFIED ENTITY shall deem necessary or desirable to secure repayment
5 of the loan.

6 6. The agency OR OTHER QUALIFIED ENTITY may charge the owner-occupant
7 of such existing private or multiple dwelling reasonable fees for admin-
8 istration, financing, regulation, supervision and audit.

9 S 33. Subdivision 7 of section 472 of the private housing finance law,
10 as added by chapter 705 of the laws of 1991, is amended to read as
11 follows:

12 7. In making a loan under this article, an agency OR OTHER QUALIFIED
13 ENTITY shall have the power to participate in a loan made by any private
14 investor, provided that the portion of the loan funded by the agency OR
15 OTHER QUALIFIED ENTITY shall not exceed an amount equal to seventy-five
16 percent of the total loan. The agency OR OTHER QUALIFIED ENTITY may
17 enter into an agreement with a private investor to deposit funds with
18 such private investor to cover the agency's OR OTHER QUALIFIED ENTITY'S
19 participation in loans to owner-occupants of one to four unit existing
20 private and multiple dwellings with such funds advanced by such private
21 investor to owner-occupants of existing dwellings. The portion of the
22 loan funded by the agency OR OTHER QUALIFIED ENTITY may be equal to or
23 subordinate in lien to the portion of the loan funded by the private
24 investor and the note and contract may contain such terms with respect
25 to interest rate, if any, and time of payment of principal and interest
26 as determined by the agency OR OTHER QUALIFIED ENTITY. The agency OR
27 OTHER QUALIFIED ENTITY may make provision, either in the mortgage or
28 mortgages or by separate agreement, for the performance by the private
29 investor of such services as are generally performed by a banking insti-
30 tution which itself holds a mortgage, including, without limitation,
31 construction loan advances, construction supervision, initiation of
32 foreclosure proceedings, procurement of insurance, and all other matters
33 in connection with the financing, supervision, regulation and audit of
34 any such loan. In order to make the loan affordable to the owner-occu-
35 pant, the agency OR OTHER QUALIFIED ENTITY may provide an interest
36 reduction subsidy pursuant to section four hundred seventy-five of this
37 article, or may provide that all or part of the agency's OR OTHER QUALI-
38 FIED ENTITY'S portion of the outstanding principal of any such partic-
39 ipation loan may be self-liquidated over a fifteen year period of
40 owner-occupancy.

41 S 34. Subdivisions 1, 2 and 3 of section 473 of the private housing
42 finance law, as added by chapter 786 of the laws of 1987, are amended to
43 read as follows:

44 1. No such loan shall be made to an owner-occupant of an existing
45 private or multiple dwelling unless the owner-occupant of such private
46 or multiple dwelling shall covenant in writing that so long as any part
47 of such loan shall remain unpaid: (i) the owner-occupant or managing
48 agent or operator of such dwelling shall permit the duly authorized
49 officers, employees, agents or inspectors of the agency OR OTHER QUALI-
50 FIED ENTITY to enter in or upon and inspect such private or multiple
51 dwelling at all reasonable hours; (ii) the agency OR OTHER QUALIFIED
52 ENTITY by such duly authorized representatives as aforesaid shall have
53 full power to investigate into and order the owner-occupant of such
54 dwelling to furnish such reports and information as it may require
55 concerning such rehabilitation or improvement and shall have full power
56 to audit the books of said owner with respect to such matters; and (iii)

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1 if the property to be rehabilitated is a multiple dwelling, the owner-
2 occupant will submit to the agency OR OTHER QUALIFIED ENTITY annually a
3 statement of income and expenses of such dwelling, in such form as shall
4 be approved by the agency OR OTHER QUALIFIED ENTITY.

5 2. A municipality OR OTHER QUALIFIED ENTITY shall neither make nor
6 participate in a loan to an owner-occupant of an existing private or
7 multiple dwelling pursuant to this article unless the agency OR OTHER
8 QUALIFIED ENTITY finds that the area in which such dwelling is situated

9 is a blighted, deteriorated or deteriorating area or has a blighting
10 influence on the surrounding area, or is in danger of becoming a slum or
11 a blighted area because of the existence of substandard, unsanitary,
12 deteriorating or deteriorated conditions, an aged housing stock, or
13 other factors indicating an inability of the private sector to cause
14 such rehabilitation to be made.

15 3. The agency OR OTHER QUALIFIED ENTITY shall have the power to impose
16 additional terms and conditions precedent to make such loans.

17 S 35. Section 474 of the private housing finance law, as added by
18 chapter 786 of the laws of 1987, is amended to read as follows:

19 S 474. Servicing of loans by banking institutions and loan servicing
20 companies. 1. The agency OR OTHER QUALIFIED ENTITY is authorized to make
21 provision in the note and loan agreement or by separate agreement for
22 the performance by one or more banking institutions of such services as
23 are generally performed by any such bank itself owning and holding such
24 a loan and as may be approved by the banking board of the state banking
25 department for which services a bank may make and collect such service
26 charges as the banking board shall prescribe or approve.

27 2. The agency OR OTHER QUALIFIED ENTITY is authorized to make
28 provision in the note and loan agreement or by separate agreement for
29 the servicing of such loans by a loan servicing company and such
30 services may include, but not be limited to, the collection of the debt
31 services on such loans and the establishment, administration, and
32 distribution of an escrow account for the payment of the owner-
33 occupant's real estate taxes, sewer and water rents and fire insurance.

34 S 36. Section 475 of the private housing finance law, as added by
35 chapter 786 of the laws of 1987, is amended to read as follows:

36 S 475. Interest reduction subsidies. Notwithstanding the provisions of
37 any general, special or local law, a municipality, acting through an
38 agency, OR OTHER QUALIFIED ENTITY is authorized to provide, or contract
39 to provide, interest reduction subsidies for loans made by private
40 investors to low and moderate income owner-occupants of one to four unit
41 existing private or multiple dwellings within its territorial limits, if
42 such owner-occupants would have been eligible under the provisions of
43 this article for a loan made by the municipality OR OTHER QUALIFIED
44 ENTITY pursuant to this article.

45 S 37. Section 477 of the private housing finance law, as added by
46 chapter 786 of the laws of 1987, is amended to read as follows:

47 S 477. Rules and regulations. The agency OR OTHER QUALIFIED ENTITY may
48 promulgate rules and regulations to carry out the provisions of this
49 article.

50 S 38. Section 478 of the private housing finance law, as added by
51 chapter 786 of the laws of 1987, is amended to read as follows:

52 S 478. Source of funds. A municipality OR OTHER QUALIFIED ENTITY may
53 utilize federal grant funds, state grant funds or any municipal funds to
54 make loans and to provide interest reduction subsidies pursuant to this
55 article.

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1 S 39. The private housing finance law is amended by adding a new
2 section 479 to read as follows:

3 S 479. STATE PROGRAMS FOR REHABILITATION OF OWNER-OCCUPIED ONE TO FOUR
4 UNIT PRIVATE AND MULTIPLE DWELLINGS. (A) THERE IS ESTABLISHED WITHIN THE
5 DIVISION OF HOUSING AND COMMUNITY RENEWAL A PROGRAM WHICH SHALL MAKE
6 GRANTS OF STATE FUNDS TO MUNICIPALITIES AND OTHER QUALIFIED ENTITIES IN
7 JURISDICTIONS WITH POPULATIONS OF MORE THAN FIFTY THOUSAND TO ENABLE THE
8 GRANT RECIPIENTS TO MAKE AND ADMINISTER LOANS TO CARRY OUT THE PURPOSES
9 OF THIS ARTICLE. REPAYMENTS OF PRINCIPAL AND INTEREST ON SUCH LOANS

10 SHALL BE USED BY THE GRANT RECIPIENTS TO MAKE AND ADMINISTER ADDITIONAL
11 LOANS TO FURTHER THE PURPOSES OF THIS ARTICLE. THE DIVISION SHALL ESTAB-
12 LISH A SEPARATE ARTICLE EIGHT-B HOUSING REHABILITATION FUND AND SHALL
13 MAKE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY AND APPROPRIATE TO
14 IMPLEMENT THIS PROGRAM, SELECT GRANT RECIPIENTS, AND EFFECTUATE THE
15 PURPOSES OF THIS ARTICLE.

16 (B) THERE IS ESTABLISHED WITHIN THE GOVERNOR`S OFFICE OF SMALL CITIES
17 A PROGRAM WHICH SHALL MAKE GRANTS OF STATE FUNDS TO MUNICIPALITIES AND
18 OTHER QUALIFIED ENTITIES IN JURISDICTIONS WITH POPULATIONS OF FIFTY
19 THOUSAND OR LESS TO ENABLE THE GRANT RECIPIENTS TO MAKE AND ADMINISTER
20 LOANS TO CARRY OUT THE PURPOSES OF THIS ARTICLE. REPAYMENTS OF PRINCIPAL
21 AND INTEREST ON SUCH LOANS SHALL BE USED BY THE GRANT RECIPIENTS TO MAKE
22 AND ADMINISTER ADDITIONAL LOANS TO FURTHER THE PURPOSES OF THIS ARTICLE.
23 THE OFFICE SHALL ESTABLISH A SEPARATE ARTICLE EIGHT-B HOUSING REHABILI-
24 TATION FUND AND SHALL MAKE SUCH RULES AND REGULATIONS AS MAY BE NECES-
25 SARY AND APPROPRIATE TO IMPLEMENT THIS PROGRAM, SELECT GRANT RECIPIENTS,
26 AND EFFECTUATE THE PURPOSES OF THIS ARTICLE.

27 S 40. The article heading of article 15 of the private housing finance
28 law, as amended by chapter 562 of the laws of 1977, is amended to read
29 as follows:

30 PARTICIPATION LOANS TO OWNERS OF
31 MULTIPLE DWELLINGS BY PRIVATE INVESTORS {AND},
32 MUNICIPALITIES {UTILIZING FEDERAL GRANT FUNDS},
33 AND THE STATE OF NEW YORK

34 S 41. Section 800 of the private housing finance law, as amended by
35 chapter 456 of the laws of 2003, is amended to read as follows:

36 S 800. Policy and purposes of article. It is hereby declared and found
37 that there exists in municipalities in this state substandard and insan-
38 itary areas and neighborhoods characterized by undermaintained and dete-
39 riorating housing accommodations and under-utilized non-residential
40 buildings and under-utilized vacant land. It is further found that there
41 exists in such municipalities a diminishing and seriously inadequate
42 supply of safe and sanitary dwelling accommodations, particularly for
43 persons of low income; that the loss of housing accommodations is caused
44 by the inability of the ordinary unaided operations of private enter-
45 prise to make loans for rehabilitation or construction purposes or for
46 conversion which accelerates the process of deterioration and abandon-
47 ment, turning active and viable neighborhoods into slums and blighted
48 areas; and that the prevention of deterioration and loss through aban-
49 donment can only be achieved by the elimination of conditions which are
50 unsafe or detrimental to health, the replacement of antiquated heating,
51 plumbing, and electrical systems and, where necessary, the overall reha-
52 bilitation of certain housing accommodations, the construction of new
53 housing accommodations on vacant land and the conversion of under-uti-
54 lized non-residential property to residential use, and that the unavail-
55 ability of funds for the conversion of under-utilized property to resi-
56 dential use, for the preservation and rehabilitation of housing

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1 accommodations and for the construction of new housing accommodations on
2 vacant land constitutes a threat to the health, safety and well-being of
3 the persons who occupy them and denies to others the possibility of
4 living in safe and sanitary housing accommodations.

5 In order to promote the preservation and rehabilitation of such hous-
6 ing accommodations, the creation of new housing accommodations by the
7 conversion of under-utilized non-residential property into multiple
8 dwellings and the construction of new housing accommodations on vacant
9 land in such areas and to encourage the investment of private capital in

10 such areas, provision should be made for a municipality AND THE STATE OF
11 NEW YORK to attract private investment for such purposes by utilizing
12 funds, which are available from the federal government through specific
13 or discretionary grants, or are available from other financing sources,
14 OR FROM STATE FUNDS for joint participation loans with private investors
15 to effect the required construction, rehabilitation or conversion.

16 The necessity in the public interest for the provisions hereinafter
17 enacted is hereby declared as a matter of legislative determination.

18 S 42. Subdivision 1 of section 801 of the private housing finance law,
19 as amended by chapter 456 of the laws of 2003, is amended to read as
20 follows:

21 1. "Agency" shall mean the NEW YORK STATE DIVISION OF HOUSING AND
22 COMMUNITY RENEWAL, THE NEW YORK STATE HOUSING FINANCE AGENCY, STATE OF
23 NEW YORK MORTGAGE AGENCY, THE HOUSING TRUST FUND CORPORATION ESTABLISHED
24 BY SECTION FORTY-FIVE-A OF THIS CHAPTER, OR THE office or agency of a
25 municipality {authorized to administer the expenditure of grants from
26 the United States of America to assist community development activities
27 and programs for the construction, rehabilitation or conservation of
28 multiple dwellings and housing accommodations or for the conversion of
29 under-utilized non-residential property into multiple dwellings or, in
30 the absence of such an office or agency, the comptroller or chief fiscal
31 officer of such municipality} WHICH SHALL INCLUDE ANY CITY, TOWN,
32 VILLAGE OR COUNTY; except that in the city of New York it shall be the
33 department of housing preservation and development or any successor
34 thereto and shall include, except for purposes of section eight hundred
35 four of this article, the New York city housing development corporation
36 with respect to any participation in a loan by such corporation pursuant
37 to section eight hundred five of this article. IF A MUNICIPALITY DETER-
38 MINES THAT IT LACKS THE ADMINISTRATIVE CAPACITY TO MAKE AND ADMINISTER
39 LOANS PURSUANT TO THIS ARTICLE, IT IS AUTHORIZED TO CONTRACT WITH A
40 QUALIFIED ENTITY AS DEFINED IN SUBDIVISION FIVE OF SECTION FOUR HUNDRED
41 FIFTY-ONE OF THIS CHAPTER TO MAKE, CONTRACT TO MAKE, AND ADMINISTER SUCH
42 LOANS ON ITS BEHALF.

43 S 43. Subdivision 7 of section 801 of the private housing finance law,
44 as amended by chapter 456 of the laws of 2003, is amended to read as
45 follows:

46 7. "Rehabilitation" shall mean the installation, replacement or repair
47 of heating, plumbing, electrical and related systems, or elimination of
48 conditions dangerous to human life or detrimental to health, including
49 nuisances as defined in section three hundred nine of the multiple
50 dwelling law, or other rehabilitation or improvement of existing multi-
51 ple dwellings, INCLUDING WITHOUT LIMITATION INSTALLATION OF EQUIPMENT,
52 REPAIRS, AND IMPROVEMENTS TO ADAPT DWELLING UNITS TO USE AND OCCUPANCY
53 BY THOSE WITH PHYSICAL DISABILITIES.

54 S 44. Section 801-a of the private housing finance law, as added by
55 chapter 848 of the laws of 1980, is amended to read as follows:

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1 S 801-a. Application to certain garden-type maisonette dwelling
2 projects. For purposes of this article an existing multiple dwelling
3 shall be deemed to include any garden-type maisonette dwelling project
4 consisting of a series of dwelling units which together and in their
5 aggregate were arranged or designed to provide three or more apartments
6 and are provided as a group collectively with all essential services
7 such as, but not limited to, water supply, house sewers and heat, and
8 which are in existence and operated as a unit under single ownership on
9 the date upon which an application for a loan pursuant to this article
10 is received by the {municipality} AGENCY, notwithstanding that certif-

11 icates of occupancy were issued for portions thereof as private dwell-
12 ings.

13 S 45. Subdivision 1 of section 802 of the private housing finance law,
14 as amended by chapter 456 of the laws of 2003, is amended to read as
15 follows:

16 1. Notwithstanding the provisions of any general, special or local
17 law, one or more private investors and THE STATE OF NEW YORK AND/OR a
18 municipality, acting through {its agency} THEIR RESPECTIVE AGENCIES,
19 shall have the power to participate and invest in making loans to the
20 owners of existing multiple dwellings or to the owners of non-residen-
21 tial property or to the owners of vacant land subject to the limitations
22 of subdivisions two through seven of this section, in such amounts as
23 shall be required for the rehabilitation of such existing multiple
24 dwellings or for the conversion of such non-residential property or for
25 the construction of a new multiple dwelling on such vacant land, and if
26 any such owner acquires the existing multiple dwelling or the non-resi-
27 dential property or the vacant land for the purpose of such rehabili-
28 tation, conversion or construction or owns the existing multiple dwell-
29 ing or the non-residential property or the vacant land subject to an
30 outstanding indebtedness, such loans may include such amounts as may be
31 required for the cost of such acquisition or for the refinancing of such
32 outstanding indebtedness, and such private investors and a municipality
33 AND/OR THE STATE may jointly participate or invest in the making of
34 temporary loans or advances to such owners in anticipation of the perma-
35 nent participation loans for such purposes. NOTWITHSTANDING THE
36 PROVISIONS OF SUBDIVISION TWO OF SECTION TWENTY-TWO OF THIS CHAPTER, THE
37 LOAN OR THE PORTION OF THE LOAN MADE BY AN AGENCY OF NEW YORK STATE MAY,
38 AT THE AGENCY'S DISCRETION, BE SUBORDINATE TO THE LIEN OF ANY LOAN OR
39 PORTION OF THE LOAN MADE BY ONE OR MORE PRIVATE INVESTORS OR MUNICI-
40 PALITIES.

41 S 46. Subdivision 2 of section 802 of the private housing finance law,
42 as amended by chapter 761 of the laws of 1985, is amended to read as
43 follows:

44 2. {A} THE STATE AND A municipality may utilize federal grant funds
45 {or}, state grant funds or any STATE OR municipal funds to finance {its}
46 THEIR participation or investment in a loan pursuant to this article.
47 This subdivision shall not apply to any participation in a loan by the
48 New York city housing development corporation pursuant to section eight
49 hundred five of this article.

50 S 47. Paragraphs (a) and (b) of subdivision 3 of section 802 of the
51 private housing finance law, as amended by chapter 456 of the laws of
52 2003, are amended to read as follows:

53 (a) Each participation loan shall be secured by a bond or note and
54 single participating mortgage or by separate bonds or notes and mort-
55 gages upon the existing multiple dwelling or the non-residential proper-
56 ty and the land upon which it is situated or in the case of the

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1 construction of a new multiple dwelling, upon the vacant land and the
2 multiple dwelling to be constructed, provided that each such loan shall
3 be made upon such terms and conditions as may be approved by the agency,
4 including but not limited to provisions that (i) priority may be given
5 to the payment of the principal of and interest on that portion of the
6 mortgage indebtedness attributable to participation in the loan by one
7 or more private investors, (ii) the interest of the {municipality} AGEN-
8 CY created as a result of making such a mortgage loan may be subordi-
9 nated to the interest that one or more of such private investors may
10 have upon such participation, (iii) the interest of each upon such

11 participation need not be of equal priority as to lien nor be equal as
12 to interest rate, time or rate of amortization of principal or time of
13 payment of interest, or otherwise, (iv) the bond or note and mortgage
14 may provide that the {municipality`s} AGENCY`S portion of a partic-
15 ipation loan made to an owner shall be reduced to zero commencing in the
16 fifteenth year after the execution of the bond or note and mortgage,
17 provided that, as of the date of any such reduction, such multiple
18 dwelling has been and continues to be owned and operated in a manner
19 consistent with a regulatory agreement with the {municipality} AGENCY.
20 Notwithstanding such provision as contained in the bond or note and
21 mortgage, the {municipality`s} AGENCY`S portion of the loan shall be
22 reduced to zero only if, prior to or simultaneously with delivery of
23 such bond or note and mortgage, the agency made a written determination
24 that such reduction would be necessary to ensure the continued afforda-
25 bility or economic viability of the multiple dwelling. Such written
26 determination shall document the basis upon which the loan was deter-
27 mined to be eligible for evaporation.

28 (b) The aggregate amount of each such participation loan shall not
29 exceed the cost of the rehabilitation, conversion or construction, plus
30 the costs of any or all undertakings necessary for the planning, financ-
31 ing, acquisition, satisfaction of tax liens and other municipal liens
32 and encumbrances, construction, equipment and development in connection
33 therewith, provided that, if any portion of such loan is used for the
34 cost of acquisition or for refinancing, the amount of {a municipality`s}
35 AN AGENCY`S portion of such loan shall not exceed one and one-half times
36 the cost of rehabilitation, conversion or construction.

37 S 48. Subdivision 6 of section 802 of the private housing finance law,
38 as added by chapter 822 of the laws of 1976, is amended to read as
39 follows:

40 6. Where {a municipality} AN AGENCY joins with one or more private
41 investors in making a participation loan secured by a single participat-
42 ing mortgage or by separate mortgages, the agency may make provision,
43 either in the mortgage or mortgages or by separate agreement, for the
44 performances of such services as are generally performed by a banking
45 institution or insurance company which itself owns and holds a mortgage
46 or by a trustee under a trust mortgage and for the imposition of reason-
47 able fees for financing, regulation, supervision and audit of such
48 multiple dwelling. The agency is hereby authorized to act as trustee or
49 to consent to the appointment of a banking institution or any subsidiary
50 thereof to act in such capacity and to provide such services as are
51 generally performed by any such bank itself or its subsidiary owning and
52 holding such a mortgage.

53 S 49. Section 803 of the private housing finance law, as amended by
54 chapter 456 of the laws of 2003, is amended to read as follows:

55 S 803. Conditions precedent to making such loans. {A municipality} AN
56 AGENCY shall not participate in a loan pursuant to this article unless

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1 the agency finds that the area in which the existing multiple dwelling,
2 non-residential property or vacant land is situated is a blighted, dete-
3 riorated or deteriorating area, or has a blighting influence on the
4 surrounding area, or is in danger of becoming a slum or a blighted area
5 because of the existence of substandard, insanitary, deteriorating or
6 deteriorated conditions, an aged housing stock, or under-utilized non-
7 residential property, or other factors indicating an inability of the
8 private sector unaided to cause such rehabilitation, conversion or
9 construction to be made and unless the agency has notified occupants of
10 the existing multiple dwelling of the contemplated rehabilitation and

11 has advised them of the expected rental increase to result therefrom and
12 a representative of the agency has met or has offered to meet at least
13 once with the occupants.

14 S 50. The private housing finance law is amended by adding a new
15 section 805-a to read as follows:

16 S 805-A. STATE PARTICIPATION IN LOANS TO OWNERS OF MULTIPLE DWELLINGS
17 BY PRIVATE INVESTORS AND/OR MUNICIPALITIES. 1. THERE IS ESTABLISHED
18 WITHIN THE DIVISION OF HOUSING AND COMMUNITY RENEWAL A PARTICIPATION
19 LOAN PROGRAM WHICH SHALL MAKE GRANTS OF STATE FUNDS TO MUNICIPALITIES
20 WITH POPULATIONS OF MORE THAN FIFTY THOUSAND TO ENABLE THE GRANT RECIPI-
21 ENTS TO MAKE AND PARTICIPATE IN LOANS TO CARRY OUT THE PURPOSES OF THIS
22 ARTICLE. REPAYMENTS OF PRINCIPAL AND INTEREST ON SUCH LOANS SHALL BE
23 USED BY THE GRANT RECIPIENTS TO MAKE AND ADMINISTER ADDITIONAL LOANS TO
24 FURTHER THE PURPOSES OF THIS ARTICLE. THE DIVISION SHALL ESTABLISH A
25 SEPARATE ARTICLE FIFTEEN PARTICIPATION LOAN FUND AND SHALL MAKE SUCH
26 RULES AND REGULATIONS AS MAY BE NECESSARY AND APPROPRIATE TO IMPLEMENT
27 THIS PROGRAM, SELECT GRANT RECIPIENTS, AND EFFECTUATE THE PURPOSES OF
28 THIS ARTICLE.

29 2. THERE IS ESTABLISHED WITHIN THE GOVERNOR'S OFFICE OF SMALL CITIES A
30 PARTICIPATION LOAN PROGRAM WHICH SHALL MAKE GRANTS OF STATE FUNDS TO
31 MUNICIPALITIES IN JURISDICTIONS WITH POPULATIONS OF FIFTY THOUSAND OR
32 LESS TO ENABLE THE GRANT RECIPIENTS TO MAKE AND PARTICIPATE IN LOANS TO
33 CARRY OUT THE PURPOSES OF THIS ARTICLE. REPAYMENTS OF PRINCIPAL AND
34 INTEREST ON SUCH LOANS SHALL BE USED BY THE GRANT RECIPIENTS TO MAKE AND
35 ADMINISTER ADDITIONAL LOANS TO FURTHER THE PURPOSES OF THIS ARTICLE.
36 THE OFFICE SHALL ESTABLISH A SEPARATE ARTICLE FIFTEEN PARTICIPATION LOAN
37 FUND AND SHALL MAKE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY AND
38 APPROPRIATE TO IMPLEMENT THIS PROGRAM, SELECT GRANT RECIPIENTS, AND
39 EFFECTUATE THE PURPOSES OF THIS ARTICLE.

40 3. THE HOUSING FINANCE AGENCY CREATED BY SECTION FORTY-THREE OF THIS
41 CHAPTER SHALL CREATE AND ESTABLISH A PARTICIPATION LOAN PROGRAM AND A
42 PARTICIPATION LOAN FUND ACCOUNT WHEREBY THE AGENCY SHALL MAKE AND
43 PARTICIPATE IN LOANS TO IMPLEMENT THIS PROGRAM AND EFFECTUATE THE
44 PURPOSES OF THIS ARTICLE. REPAYMENTS OF PRINCIPAL AND INTEREST ON SUCH
45 LOANS SHALL BE USED BY THE AGENCY TO MAKE AND ADMINISTER ADDITIONAL
46 LOANS TO FURTHER THE PURPOSES OF THIS ARTICLE.

47 4. THE STATE OF NEW YORK MORTGAGE AGENCY SHALL CREATE AND ESTABLISH A
48 PARTICIPATION LOAN PROGRAM AND THE AGENCY IS HEREBY AUTHORIZED TO USE
49 MONEYS DEPOSITED IN THE AFFORDABLE HOUSING DEVELOPMENT ACCOUNT ESTAB-
50 LISHED BY SECTION TWENTY-FOUR HUNDRED FIVE-F OF THE PUBLIC AUTHORITIES
51 LAW TO PARTICIPATE IN LOANS PURSUANT TO THIS ARTICLE. REPAYMENTS OF
52 PRINCIPAL AND INTEREST ON SUCH LOANS SHALL BE USED BY THE AGENCY TO MAKE
53 AND ADMINISTER ADDITIONAL LOANS TO FURTHER THE PURPOSES OF THIS ARTICLE.
54 THE AGENCY MAY DELEGATE THE AUTHORITY PROVIDED TO IT BY THIS SUBDIVISION
55 TO THE NEW YORK STATE HOUSING FINANCE AGENCY CREATED BY SECTION

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1 FORTY-THREE OF THIS CHAPTER FOR THE PURPOSES OF MAKING AND ADMINISTERING
2 THE AGENCY'S PARTICIPATION LOANS.

3 S 51. Section 42 of the private housing finance law is amended by
4 adding a new subdivision 6-h to read as follows:

5 6-H. "MORTGAGE LOAN" SHALL ALSO MEAN A LOAN MADE BY THE AGENCY TO AN
6 OWNER OF MULTIPLE DWELLINGS IN PARTICIPATION WITH ONE OR MORE PRIVATE
7 INVESTORS AND/OR A MUNICIPALITY IN ACCORDANCE WITH AND IN FURTHERANCE OF
8 THE PURPOSES OF ARTICLE FIFTEEN OF THIS CHAPTER. SUCH LOAN SHALL BE
9 SECURED BY A MORTGAGE WHICH, NOTWITHSTANDING THE PROVISIONS OF SUBDIVI-
10 SION TWO OF SECTION TWENTY-TWO OF THIS CHAPTER, MAY BE SUBORDINATE TO
11 THE LIEN OF ANY MORTGAGE LOAN MADE BY ONE OR MORE OF THE PRIVATE INVES-

12 TORS OR STATE OR MUNICIPAL AGENCIES WITH WHICH THE AGENCY IS PARTICIPAT-
13 ING. SUCH MORTGAGE MAY CONTAIN SUCH TERMS AND CONDITIONS NOT INCONSIST-
14 ENT WITH THIS ARTICLE AS MAY BE APPROVED BY THE COMMISSIONER, AND AS THE
15 AGENCY MAY DEEM NECESSARY OR DESIRABLE TO SECURE THE REPAYMENT OF SUCH
16 INDEBTEDNESS.

17 S 52. Section 44 of the private housing finance law is amended by
18 adding a new subdivision 32 to read as follows:

19 32. TO MAKE AND CONTRACT FOR THE MAKING OF MORTGAGE LOANS TO OWNERS OF
20 MULTIPLE DWELLINGS IN PARTICIPATION WITH ONE OR MORE PRIVATE INVESTORS
21 AND/OR A MUNICIPALITY IN ACCORDANCE WITH AND IN FURTHERANCE OF THE
22 PURPOSES OF ARTICLE FIFTEEN OF THIS CHAPTER.

23 S 53. Section 47 of the private housing finance law is amended by
24 adding a new subdivision 17 to read as follows:

25 17. PARTICIPATION LOAN FUND ACCOUNT. THE AGENCY SHALL CREATE AND
26 ESTABLISH A SPECIAL ACCOUNT TO BE KNOWN AS THE PARTICIPATION LOAN FUND
27 ACCOUNT AND SHALL PAY INTO SUCH ACCOUNT ANY MONEYS WHICH MAY BE MADE
28 AVAILABLE TO THE AGENCY FOR THE PURPOSES OF SUCH ACCOUNT FROM ANY SOURCE
29 INCLUDING BUT NOT LIMITED TO MONEYS APPROPRIATED BY AND MADE AVAILABLE
30 PURSUANT TO APPROPRIATION BY THE STATE, ANY INCOME OR INTEREST EARNED
31 BY, OR INCREMENT TO, THE ACCOUNT DUE TO THE INVESTMENT THEREOF OR
32 PARTICIPATION LOANS MADE PURSUANT TO SUBDIVISION THIRTY-TWO OF SECTION
33 FORTY-FOUR OF THIS ARTICLE, OR ANY PROCEEDS OF SALE OF NOTES OR BONDS
34 WHICH THE AGENCY MAY ISSUE PURSUANT TO SUBDIVISION TWO OF SECTION
35 FORTY-SEVEN-E OF THIS ARTICLE FOR THE PURPOSE OF MAKING PARTICIPATION
36 LOANS PURSUANT TO SUBDIVISION THIRTY-TWO OF SECTION FORTY-FOUR OF THIS
37 ARTICLE. THE MONEYS HELD IN OR CREDITED TO THE PARTICIPATION LOAN FUND
38 SHALL BE EXPENDED SOLELY TO CARRY OUT THE PROVISIONS OF SUBDIVISION
39 THIRTY-TWO OF SECTION FORTY-FOUR OF THIS ARTICLE.

40 S 54. Paragraph (a) of subdivision 1 of section 47-e of the private
41 housing finance law, as amended by chapter 215 of the laws of 1990,
42 subparagraph 5 as added by chapter 166 of the laws of 1991, is amended
43 to read as follows:

44 (a) "Housing program" shall mean the housing assistance projects or
45 programs funded from an appropriation or an apportionment to the:

46 (1) housing assistance fund created by section ninety-two-q of the
47 state finance law, AS ADDED BY CHAPTER TWO HUNDRED SIXTY-ONE OF THE LAWS
48 OF NINETEEN HUNDRED EIGHTY-EIGHT;

49 (2) the affordable housing corporation and deposited in the affordable
50 housing development account established pursuant to section fifty-nine-b
51 of this chapter;

52 (3) the housing trust fund corporation and deposited in the housing
53 trust fund account established pursuant to section fifty-nine-a of this
54 chapter; and

55 (4) the homeless housing and assistance account established pursuant
56 to section fifty-nine-i of this chapter{.};

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1 (5) {Housing} HOUSING project repair fund created by section sixty of
2 this chapter{.}; AND

3 (6) PARTICIPATION LOAN FUND ACCOUNT CREATED BY SUBDIVISION SEVENTEEN
4 OF SECTION FORTY-SEVEN OF THIS ARTICLE.

5 S 55. Subdivision 3 of section 1101 of the private housing finance
6 law, as amended by chapter 121 of the laws of 1988, is amended to read
7 as follows:

8 3. "Rehabilitation" shall mean all work necessary to bring a residen-
9 tial property into compliance with all applicable laws and regulations
10 including but not limited to the installation, replacement or repair of
11 heating, plumbing, electrical and related systems and the elimination of

12 all hazardous and immediately hazardous violations in the structure in
13 accordance with state and local laws and regulations of state and local
14 agencies. Rehabilitation may also include reconstruction or work to
15 improve the habitability or prolong the useful life of the residential
16 property INCLUDING WITHOUT LIMITATION INSTALLATION OF EQUIPMENT,
17 REPAIRS, AND IMPROVEMENTS TO ADAPT DWELLING UNITS TO USE AND OCCUPANCY
18 BY THOSE WITH PHYSICAL DISABILITIES.

19 S 56. Subdivision 1 of section 1102 of the private housing finance
20 law, as amended by chapter 432 of the laws of 1997, is amended to read
21 as follows:

22 1. Within the limit of funds available in the housing trust fund
23 account, the corporation is hereby authorized to enter into contracts
24 with eligible applicants for the furnishing by such applicants of hous-
25 ing for persons of low income. Each such contract shall provide that
26 eligible applicants rehabilitate or construct one or more projects or
27 convert one or more nonresidential properties. Such contracts may
28 provide for payments, grants or loans by the corporation for the activ-
29 ities to be carried out by the eligible applicant under the contract.
30 Such contracts shall provide that a private developer make an equity
31 investment of the greater of (i) two and one-half percent of project
32 costs or (ii) five percent of project costs less grants which are to be
33 applied to such costs. The foregoing shall not preclude a private devel-
34 oper from making a greater equity investment. Any payments, grants or
35 loans made by the corporation outstanding at the time of resale shall be
36 subject to repayment in whole or in part upon resale after termination
37 of the regulatory period and as otherwise provided therein. Such repay-
38 ment provisions may survive the end of the regulatory period. Such
39 contracts may provide that eligible applicants shall either (a) perform
40 activities specified under the contract themselves or (b) act as admin-
41 istrators of a program under which projects are rehabilitated or
42 constructed or nonresidential properties are converted by other eligible
43 applicants or (c) perform both such functions. In the case of a munici-
44 pality acting as an administrator, funds provided to such municipality
45 hereunder shall not be deemed to be municipal funds. The corporation
46 shall refer any request for payments, grants or loans from persons of
47 low income to eligible applicants in the area in which such persons
48 reside. Loans may be in the form of participation in loans including
49 but not limited to (A) participation in loans originated or financed by
50 lending institutions as defined in section forty-two of this chapter,
51 the state of New York mortgage agency, the New York city housing devel-
52 opment corporation, the New York state housing finance agency or private
53 or public employee pension funds AND (B) PARTICIPATION IN LOANS ORIGI-
54 NATED OR FINANCED PURSUANT TO ARTICLE EIGHT-A OR ARTICLE FIFTEEN OF THIS
55 CHAPTER. Notwithstanding any other provision of law, payments, grants
56 and loans may be deposited by the corporation directly with a lending

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1 institution at or before the time of initial loan closing pursuant to an
2 escrow agreement satisfactory to the corporation. Payments, grants and
3 loans shall be on such terms and conditions as the corporation, or the
4 eligible applicant with the approval of the corporation, as the case may
5 be, shall determine. Payments, grants and loans shall be used to pay for
6 the actual and necessary cost of acquisition, construction, rehabili-
7 tation or conversion, provided that not more than twenty-five percent of
8 such payments, grants and loans received for the rehabilitation,
9 construction or conversion of a project may be used for the cost of the
10 project's acquisition and, provided further, that payments, grants or
11 loans shall not be used for (i) the administrative costs of an eligible

12 applicant except as otherwise authorized by law, (ii) the cost of the
13 acquisition, construction, conversion or rehabilitation of residential
14 units which, subsequent to such acquisition, construction, conversion or
15 rehabilitation, are to be occupied by persons other than persons of low
16 income, and (iii) the cost of the acquisition, construction, conversion
17 or rehabilitation of units which, subsequent to such acquisition,
18 construction, conversion or rehabilitation, are occupied or to be occu-
19 pied for other than residential purposes. No such payments, grants or
20 loans shall exceed a total of fifty-five thousand dollars per dwelling
21 unit provided, however, that the corporation shall have the discretion
22 to provide payments, grants and loans in excess of fifty-five thousand
23 dollars provided that such additional funds shall not exceed twenty
24 thousand dollars per dwelling unit. Among the criteria the corporation
25 shall consider in determining whether to provide additional funds are:
26 average cost of construction in the area, location of the project and
27 the impact of the additional funding on the affordability of the project
28 for the occupants of such project. The length of any loan provided under
29 this article shall not exceed thirty years. No more than fifty percent
30 of the total amount originally appropriated pursuant to this article in
31 any fiscal year shall be allocated to projects located within any single
32 municipality. Of the amount originally appropriated to the corporation
33 in any fiscal year, no more than thirty-three and one-third percent
34 shall be allocated to private developers for projects within a city with
35 a population of one million or more. Of the amount originally appropri-
36 ated to the corporation in any fiscal year, no more than thirty-three
37 and one-third percent shall be allocated to private developers for
38 projects in the area outside cities with a population of one million or
39 more.

40 S 57. The private housing finance law is amended by adding a new arti-
41 cle 23 to read as follows:

42 ARTICLE XXIII

43 STATEWIDE AFFORDABLE MULTI-FAMILY HOUSING DEVELOPMENT
44 PROGRAM

45 SECTION 1154. STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSES.

46 1155. DEFINITIONS.

47 1156. AFFORDABLE MULTI-FAMILY HOUSING DEVELOPMENT LOANS.

48 1157. AGENCY PROGRAMS FOR DEVELOPMENT OF AFFORDABLE MULTI-FAMILY
49 HOUSING.

50 1158. GENERAL PROVISIONS.

51 S 1154. STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSES. IT IS HEREBY
52 FOUND AND DECLARED THAT THERE EXISTS IN THE STATE OF NEW YORK A SERIOUS-
53 LY INADEQUATE SUPPLY OF SAFE, SANITARY AND AFFORDABLE DWELLING ACCOMMO-
54 DATIONS FOR PERSONS AND FAMILIES FOR WHOM THE ORDINARY OPERATIONS OF
55 PRIVATE ENTERPRISE CANNOT PROVIDE SUCH ACCOMMODATIONS. THE LEGISLATURE
56 FURTHER FINDS AND DECLARES THAT THE STATE OF NEW YORK AND ITS AGENCIES

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1 SHOULD BE PERMITTED TO ASSIST THE PRIVATE AND NON-PROFIT SECTORS IN THE
2 DEVELOPMENT OF MULTI-FAMILY DWELLING ACCOMMODATIONS AFFORDABLE TO SUCH
3 PERSONS THROUGH THE ESTABLISHMENT OF A PROGRAM TO PROVIDE MONIES TO MAKE
4 THE CONSTRUCTION AND OPERATION OF MULTI-FAMILY DWELLING ACCOMMODATIONS
5 MORE AFFORDABLE. ACCORDINGLY, THE LEGISLATURE ENACTS THIS ARTICLE TO
6 PROVIDE SUCH AUTHORIZATION TO THE STATE AND ITS AGENCIES AND TO ENCOUR-
7 AGE THE DEVELOPMENT OF MORE AFFORDABLE MULTI-FAMILY DWELLING ACCOMMO-
8 DATIONS.

9 S 1155. DEFINITIONS. 1. "ELIGIBLE SITE" SHALL MEAN ANY REAL PROPERTY
10 IN THE STATE OF NEW YORK WHICH IS LOCATED IN A COUNTY IN WHICH THE
11 COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL DETERMINES

12 THAT (A) TWENTY-FIVE PERCENT OR MORE OF THE RENTER HOUSEHOLDS IN SUCH
13 COUNTY HAVE HOUSING COSTS WHICH EXCEED THIRTY PERCENT OR MORE OF THEIR
14 ANNUAL HOUSEHOLD INCOMES ACCORDING TO THE MOST RECENT DECENNIAL CENSUS
15 OF THE UNITED STATES CENSUS BUREAU, OR (B) TWENTY-FIVE PERCENT OR MORE
16 OF THE RENTER HOUSEHOLDS IN SUCH COUNTY CANNOT AFFORD THE FAIR MARKET
17 RENT FOR A TWO BEDROOM RENTAL APARTMENT IN THAT COUNTY AS MOST RECENTLY
18 DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOP-
19 MENT.

20 2. "ELIGIBLE PROJECT" SHALL MEAN A PROJECT INTENDED TO CONSTRUCT FIVE
21 OR MORE UNITS OF NEW MULTI-FAMILY HOUSING ACCOMMODATIONS ON AN ELIGIBLE
22 SITE BY NEW CONSTRUCTION OR SUBSTANTIAL REHABILITATION FOR PERSONS AND
23 FAMILIES FOR WHOM THE ORDINARY OPERATIONS OF PRIVATE ENTERPRISE CANNOT
24 PROVIDE SAFE, SANITARY AND AFFORDABLE DWELLING ACCOMMODATIONS. AN ELIGI-
25 BLE PROJECT INCLUDES CONDOMINIUMS, COOPERATIVES, AND RENTAL PROJECTS.

26 3. "DEVELOPMENT COSTS" SHALL MEAN THE REASONABLE AND NECESSARY COSTS
27 FOR PLANNING, FINANCING, ACQUISITION OF LAND OR BUILDINGS AND
28 CONSTRUCTION OF NEW BUILDINGS OR THE RECONSTRUCTION, REHABILITATION,
29 REPAIR, OR REMODELING OF EXISTING BUILDINGS AND THE COSTS OF NECESSARY
30 SITE IMPROVEMENTS.

31 4. "PERSONS AND FAMILIES FOR WHOM THE ORDINARY OPERATIONS OF PRIVATE
32 ENTERPRISE CANNOT PROVIDE SAFE, SANITARY AND AFFORDABLE DWELLING ACCOM-
33 MODATIONS" SHALL MEAN PERSONS AND FAMILIES WHOSE PROBABLE AGGREGATE
34 ANNUAL INCOME AT THE TIME OF ADMISSION AND DURING THE PERIOD OF OCCUPAN-
35 CY DOES NOT EXCEED, THE GREATER OF (A) ONE HUNDRED FIFTY PERCENT OF THE
36 MEDIAN INCOME FOR SUCH PERSONS AND FAMILIES FOR THE METROPOLITAN STATIS-
37 TICAL AREA IN WHICH THE PROJECT IS LOCATED, OR IF A PROJECT IS LOCATED
38 OUTSIDE A METROPOLITAN STATISTICAL AREA, THE MEDIAN INCOME FOR SUCH
39 PERSONS AND FAMILIES FOR THE COUNTY IN WHICH THE PROJECT IS LOCATED, AS
40 MOST RECENTLY DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
41 URBAN DEVELOPMENT, OR (B) SEVEN TIMES THE RENTAL OR CARRYING CHARGES,
42 INCLUDING THE VALUE OR COST TO THEM OF HEAT, LIGHT, WATER, AND COOKING
43 FUEL, OF THE DWELLINGS THAT MAY BE FURNISHED TO SUCH PERSONS OR FAMI-
44 LIES, EXCEPT THAT IN THE CASE OF FAMILIES WITH THREE OR MORE DEPENDENTS,
45 SUCH RATIO SHALL NOT EXCEED EIGHT TO ONE, OR (C) IN THE CASE OF PROJECTS
46 LOCATED IN COUNTIES WHICH THE AGENCY DETERMINES HAVE DEVELOPMENT COSTS
47 THAT ARE FIFTY PERCENT HIGHER THAN THE STATEWIDE AVERAGE, TWO HUNDRED
48 FIFTY PERCENT OF THE MEDIAN INCOME FOR SUCH PERSONS AND FAMILIES FOR THE
49 METROPOLITAN STATISTICAL AREA IN WHICH THE PROJECT IS LOCATED, OR IF
50 SUCH A PROJECT IS LOCATED OUTSIDE A METROPOLITAN STATISTICAL AREA, THE
51 MEDIAN INCOME FOR SUCH PERSONS AND FAMILIES FOR THE COUNTY IN WHICH THE
52 PROJECT IS LOCATED, AS MOST RECENTLY DETERMINED BY THE UNITED STATES
53 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. "PROBABLE AGGREGATE INCOME"
54 SHALL MEAN PROBABLE AGGREGATE INCOME AS DEFINED IN PARAGRAPH (A) OF
55 SUBDIVISION TWO OF SECTION THIRTY-ONE OF THIS CHAPTER.

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1 5. "SPONSOR" SHALL MEAN ANY NOT-FOR-PROFIT CORPORATION, ANY PUBLIC
2 BENEFIT CORPORATION, OR ANY PUBLIC BENEFIT CORPORATION OR ANY INDIVID-
3 UAL, CORPORATION, OR PARTNERSHIP WHICH RECEIVES A LOAN PURSUANT TO THIS
4 ARTICLE FOR THE CONSTRUCTION OF AN ELIGIBLE PROJECT, OR WHICH RECEIVES
5 AN ADVANCE PURSUANT TO THIS ARTICLE TO DEFRAY THE PRE-DEVELOPMENT COSTS
6 OF ANY ELIGIBLE PROJECT. A SPONSOR WHO IS NOT A NOT-FOR-PROFIT CORPO-
7 RATION SHALL AGREE TO LIMIT ITS PROFIT IN ACCORDANCE WITH A FORMULA
8 SATISFACTORY TO THE AGENCY, PROVIDED THAT THE AGENCY SHALL SET THE
9 LIMITS ON PROFIT AT NO LESS THAN EIGHT PERCENT AND NO MORE THAN TWELVE
10 PERCENT.

11 6. "LOAN" SHALL MEAN A FIRST MORTGAGE LOAN MADE BY A PRIVATE INVESTOR,
12 A MUNICIPALITY, OR A MUNICIPAL AGENCY IN PARTICIPATION WITH THE STATE OF

13 NEW YORK OR AN AGENCY THEREOF TO A SPONSOR FOR THE PURPOSE OF
14 CONSTRUCTION OF AN ELIGIBLE PROJECT, INCLUDING A LOAN IN WHICH THE
15 PORTION OF THE LOAN FUNDED BY THE STATE OR AN AGENCY THEREOF IS REPRESENTED BY A SEPARATE NOTE AND MORTGAGE.

17 7. "PRIVATE LENDER" SHALL MEAN ONE OR MORE BANKING ORGANIZATIONS,
18 FOUNDATIONS, LABOR UNIONS, CREDIT UNIONS, EMPLOYEES' ASSOCIATIONS,
19 VETERANS' ORGANIZATIONS, COLLEGES, UNIVERSITIES, EDUCATIONAL INSTITUTIONS,
20 CHILD CARE INSTITUTIONS, HOSPITALS, MEDICAL RESEARCH INSTITUTIONS,
21 INSURANCE COMPANIES, TRUSTEES OR FIDUCIARIES, TRUSTEES OF PENSIONS AND RETIREMENT FUNDS AND SYSTEMS, CORPORATIONS, PARTNERSHIPS,
22 INDIVIDUALS OR OTHER ENTITIES OR ANY COMBINATIONS OF THE FOREGOING, AND
23 SHALL INCLUDE ANY PUBLIC BENEFIT CORPORATIONS AND THE UNITED STATES OF AMERICA AND ANY OF ITS AGENCIES AND DEPARTMENTS. AS USED IN THIS DEFINITION, THE TERMS "TRUSTEES" AND "FIDUCIARIES" SHALL INCLUDE ANY FIDUCIARY OR FIDUCIARIES HOLDING FUNDS FOR INVESTMENT AND THE TERM "BANKING ORGANIZATIONS" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION ELEVEN OF SECTION TWO OF THE BANKING LAW.

30 8. "RENTAL PROJECT" SHALL MEAN ANY PROJECT CONSISTING OF FIVE OR MORE DWELLING UNITS OCCUPIED AS A RESIDENTIAL RENTAL PROJECT.

32 9. "AGENCY" SHALL MEAN THE NEW YORK STATE HOUSING FINANCE AGENCY AND THE STATE OF NEW YORK MORTGAGE AGENCY.

34 10. "MUNICIPALITY" SHALL MEAN ANY CITY, TOWN, AND VILLAGE.

35 S 1156. AFFORDABLE MULTI-FAMILY HOUSING DEVELOPMENT LOANS. 1.
36 NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL, OR LOCAL LAW,
37 ONE OR MORE PRIVATE LENDERS, A MUNICIPALITY ACTING IN ITS OWN RIGHT OR
38 THROUGH AN AGENCY THEREOF, AND THE STATE OF NEW YORK ACTING THROUGH THE
39 AGENCY SHALL HAVE THE POWER TO PARTICIPATE AND INVEST IN MAKING LOANS TO
40 SPONSORS FOR THE CONSTRUCTION OF ELIGIBLE PROJECTS. SUCH LOANS MAY
41 INCLUDE SUCH AMOUNTS AS MAY BE REQUIRED FOR SITE ACQUISITION. EACH SUCH
42 PARTICIPATION LOAN SHALL BE SECURED BY A BOND OR NOTE AND SINGLE PARTICIPATING MORTGAGE OR BY SEPARATE BONDS OR NOTES AND MORTGAGES UPON THE
43 ELIGIBLE PROJECT OR BE MADE OUT OF FUNDS AVAILABLE IN THE AFFORDABLE
44 HOUSING DEVELOPMENT ACCOUNT OF THE NEW YORK STATE HOUSING FINANCE AGENCY
45 ESTABLISHED PURSUANT TO SECTION FIFTY-NINE-J OF THIS CHAPTER AND SECURED
46 BY A MORTGAGE UPON THE ELIGIBLE PROJECT OR BE MADE OUT OF FUNDS AVAILABLE IN THE HOUSING DEVELOPMENT ACCOUNT OF THE STATE OF NEW YORK MORTGAGE AGENCY ESTABLISHED PURSUANT TO SECTION TWENTY-FOUR HUNDRED FIVE-F OF THE PUBLIC AUTHORITIES LAW AND SECURED BY A MORTGAGE UPON THE ELIGIBLE PROJECT. SUCH BOND OR NOTE AND MORTGAGE OR BONDS OR NOTES OR MORTGAGES MAY CONTAIN SUCH OTHER TERMS AND PROVISIONS NOT INCONSISTENT WITH
53 THE PROVISIONS OF THIS ARTICLE AS THE AGENCY MAY DEEM NECESSARY OR
54 DESIRABLE.

55 2. THE PORTION OF SUCH LOAN FUNDED BY THE AGENCY SHALL NOT EXCEED
56 NINETY-FIVE PERCENT OF THE ACTUAL TOTAL DEVELOPMENT COST OF AN ELIGIBLE

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1 PROJECT. THE AGENCY MAY ENTER INTO AN AGREEMENT WITH A PRIVATE LENDER TO
2 DEPOSIT ITS SHARE OF A LOAN WITH THE PRIVATE LENDER TO BE ADVANCED BY
3 THE PRIVATE LENDER. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF
4 SECTION TWENTY-TWO OF THIS CHAPTER, THE PORTION OF THE LOAN FUNDED BY
5 THE AGENCY MAY BE EQUAL TO OR SUBORDINATE IN LIEN TO THE PORTION OR
6 PORTIONS OF THE LOAN FUNDED BY THE PRIVATE LENDER AND OTHER PARTICIPANTS, IF ANY, AND MAY CONTAIN SUCH TERMS WITH RESPECT TO INTEREST
8 RATE, RATE OF AMORTIZATION OF PRINCIPAL, IF ANY, AND TIME OF PAYMENT OF
9 INTEREST AND PRINCIPAL AS DETERMINED BY THE AGENCY. THE AGENCY MAY MAKE
10 A PROVISION EITHER IN THE MORTGAGE OR MORTGAGES OR BY SEPARATE AGREEMENT
11 FOR THE PERFORMANCE BY THE PRIVATE LENDER AND OTHER PARTICIPANTS, IF
12 ANY, OF SUCH SERVICES AS ARE GENERALLY PERFORMED BY A BANKING INSTITUTION.

13 TION WHICH ITSELF HOLDS A MORTGAGE, INCLUDING, WITHOUT LIMITATION,
14 CONSTRUCTION LOAN ADVANCES, CONSTRUCTION SUPERVISION, INITIATION OF
15 FORECLOSURE PROCEEDINGS, PROCUREMENT OF INSURANCE, AND OTHER MATTERS IN
16 CONNECTION WITH THE FINANCING, SUPERVISION, REGULATION, AND AUDIT OF ANY
17 SUCH LOAN TO ANY SUCH ELIGIBLE PROJECT.

18 3. IF A PORTION OF THE LOAN IS TO BE UTILIZED FOR ACQUISITION OF AN
19 ELIGIBLE SITE SUCH PORTION SHALL IN NO EVENT EXCEED TWENTY-FIVE PERCENT
20 OF THE TOTAL AMOUNT OF SUCH LOAN OR THE APPRAISED VALUE OF THE SITE,
21 WHICHEVER IS LESS.

22 4. (A) IF THE ELIGIBLE PROJECT IS TO CONSIST OF COOPERATIVE OR CONDO-
23 MINUM UNITS, THE AGENCY'S SHARE OF THE LOAN MAY BE CONVERTED AFTER
24 COMPLETION OF CONSTRUCTION INTO MORTGAGES ON SUCH CONDOMINIUM UNITS OR
25 FINANCING STATEMENTS FILED WITH RESPECT TO SUCH COOPERATIVE SHARES,
26 PROVIDED SUCH UNITS OR SUCH COOPERATIVE SHARES ARE PURCHASED BY PERSONS
27 OF ELIGIBLE INCOME.

28 (B) SUCH MORTGAGES MAY PROVIDE THAT THEY WILL AUTOMATICALLY BE REDUCED
29 TO ZERO OVER A PERIOD OF CONTINUOUS OWNER-OCCUPANCY OF THE HOUSING
30 ACCOMMODATIONS ASSISTED BY SUCH LOAN. NOTWITHSTANDING SUCH PROVISION
31 CONTAINED IN SUCH MORTGAGE, THE LOAN SHALL BE REDUCED TO ZERO ONLY IF,
32 PRIOR TO OR SIMULTANEOUSLY WITH DELIVERY OF SUCH MORTGAGE, THE AGENCY
33 MADE A WRITTEN DETERMINATION THAT SUCH REDUCTION WOULD BE NECESSARY TO
34 ENSURE THE CONTINUED AFFORDABILITY OR ECONOMIC VIABILITY OF THE ELIGIBLE
35 PROJECT. SUCH WRITTEN DETERMINATION SHALL DOCUMENT THE BASIS UPON WHICH
36 THE LOAN WAS DETERMINED TO BE ELIGIBLE FOR EVAPORATION. SUCH PERIOD OF
37 CONTINUOUS OWNER-OCCUPANCY SHALL NOT BE LESS THAN FIFTEEN YEARS.

38 5. IF THE ELIGIBLE PROJECT IS TO CONSIST OF COOPERATIVE OR CONDOMINIUM
39 UNITS, THE AGENCY SHALL REQUIRE THAT THE DWELLING UNITS BE OFFERED ONLY
40 TO BONA FIDE PURCHASERS WHO INTEND TO OCCUPY A UNIT AS THEIR PRINCIPAL
41 PLACE OF RESIDENCE. IF THE PURCHASER CEASES TO OCCUPY THE UNIT AS A
42 PRINCIPAL PLACE OF RESIDENCE, THE AGENCY MAY PROVIDE FOR RECAPTURE OF
43 ALL OR A PORTION OF THE AGENCY'S SHARE OF THE LOAN.

44 6. IF THE ELIGIBLE PROJECT IS A RENTAL PROJECT, THE AGENCY'S SHARE OF
45 THE LOAN MAY BE CONVERTED AFTER COMPLETION OF CONSTRUCTION INTO A
46 NON-INTEREST BEARING, NON-AMORTIZING THIRTY YEAR LOAN PAYABLE AT THE END
47 OF ITS TERM, PROVIDED THAT SUCH LOAN SHALL ALSO BE PAYABLE OUT OF
48 PROFITS UPON ANY SALE OR REFINANCING OF THE PROJECT PRIOR TO THE END OF
49 SUCH THIRTY YEAR PERIOD. THE SPONSOR OR ANY SUBSEQUENT OWNER OR OWNERS
50 OF SUCH A PROJECT SHALL AGREE TO RENT SUCH UNITS ONLY TO PERSONS OF
51 ELIGIBLE INCOME FOR SUCH THIRTY YEAR PERIOD, UNLESS CONVERTED TO A COOP-
52 ERATIVE OR CONDOMINIUM PURSUANT TO SUBDIVISION EIGHT OF THIS SECTION. IF
53 THE PROJECT IS LOCATED IN AREAS OF THE STATE SUBJECT TO THE RENT
54 STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, AS AMENDED, THE SPON-
55 SOR OR ANY SUBSEQUENT OWNER OR OWNERS OF SUCH PROJECT SHALL ALSO AGREE
56 THAT ALL UNITS SHALL BE SUBJECT TO SUCH RENT STABILIZATION LAW FOR A

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1 PERIOD OF THIRTY YEARS AFTER INITIAL OCCUPANCY, UNLESS CONVERTED TO A
2 COOPERATIVE OR CONDOMINIUM PURSUANT TO SUBDIVISION EIGHT OF THIS
3 SECTION; AT THE END OF SUCH PERIOD EACH UNIT SHALL CONTINUE TO BE
4 SUBJECT TO SUCH LAW THEREAFTER UNTIL THE FIRST VACANCY OCCURS AT WHICH
5 TIME THE UNIT SHALL BE DECONTROLLED. INITIAL RENTS FOR ALL RENTAL UNITS
6 SHALL BE SET BY THE AGENCY.

7 7. IF THE ELIGIBLE PROJECT IS A RENTAL PROJECT, ANNUAL PROFITS SHALL
8 BE LIMITED TO AN AMOUNT SET BY THE AGENCY FOR AS LONG AS THE LOAN IS
9 OUTSTANDING, PROVIDED THAT THE AGENCY SHALL SET THE LIMITS ON PROFITS AT
10 NO LESS THAN SIX PERCENT AND NO MORE THAN TEN PERCENT. EXCESS PROFITS
11 SHALL BE USED TO ESTABLISH PROJECT RESERVES, PROVIDE CAPITAL IMPROVE-
12 MENTS OR REDUCE THE PRINCIPAL AMOUNT OF THE AGENCY'S LOAN, AS DETERMINED

13 BY THE AGENCY.

14 8. IF THE ELIGIBLE PROJECT IS A RENTAL PROJECT, NO CONVERSION TO A
15 COOPERATIVE OR CONDOMINIUM SHALL BE PERMITTED FOR A PERIOD OF TWENTY
16 YEARS AFTER INITIAL OCCUPANCY, AND UNLESS (A) THE AGENCY'S SHARE OF THE
17 LOAN IS PREPAID UPON SUCH CONVERSION, (B) THE CONVERSION SHALL BE DONE
18 PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE OF THE GENERAL BUSINESS
19 LAW AS A NON-EVICTION PLAN, AND (C) IF THE PROJECT IS LOCATED IN AREAS
20 OF THE STATE SUBJECT TO THE RENT STABILIZATION LAW OF NINETEEN HUNDRED
21 SIXTY-NINE, AS AMENDED, APARTMENTS OCCUPIED BY NON-PURCHASING TENANTS
22 CONTINUE TO BE SUBJECT TO SUCH LAW UNTIL THE OCCURRENCE OF A VACANCY.

23 9. A LOAN MADE PURSUANT TO THIS ARTICLE SHALL BE EXEMPT FROM THE MORT-
24 GAGE TAX IMPOSED BY ARTICLE ELEVEN OF THE TAX LAW.

25 10. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL, OR LOCAL
26 LAW OR CHARTER, THE AGENCY SHALL HAVE THE POWER, WITHOUT SOLICITING
27 COMPETING BIDS, TO CONTRACT WITH ANY SPONSOR OR TO MAKE PROVISION IN A
28 LOAN FOR THE CONSTRUCTION OR RECONSTRUCTION OF ANY SITE IMPROVEMENTS
29 LOCATED IN THE PUBLIC RIGHT-OF-WAY WHICH ARE NECESSARY FOR THE DEVELOP-
30 MENT OF AN ELIGIBLE PROJECT. SUCH SITE IMPROVEMENTS MAY INCLUDE, BUT
31 SHALL NOT BE LIMITED TO, STREETS, SIDEWALKS, LIGHTING FIXTURES, AND
32 WATER AND SEWER LINES.

33 11. NO LOAN SHALL BE MADE PURSUANT TO THE PROVISIONS OF THIS ARTICLE
34 UNLESS THE AGENCY FINDS THAT:

35 (A) THE CONSTRUCTION OF THE ELIGIBLE PROJECT DOES NOT DIRECTLY
36 DISPLACE CURRENT LOW AND MODERATE INCOME RESIDENTS OF THE ELIGIBLE SITE;

37 (B) THE ELIGIBLE PROJECT LEVERAGES PRIVATE AND OTHER PUBLIC INVEST-
38 MENT, IF ANY, IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION;

39 (C) THE ELIGIBLE PROJECT WILL BE BUILT BY A PRIVATE DEVELOPER-BUILDER
40 WHO HAS AGREED TO LIMIT ITS PROFIT IN ACCORDANCE WITH A FORMULA SATIS-
41 FACTORY TO THE AGENCY, PROVIDED THAT THE AGENCY SHALL SET THE LIMITS ON
42 PROFITS AT NO LESS THAN EIGHT PERCENT AND NO MORE THAN TWELVE PERCENT;

43 (D) THE ELIGIBLE PROJECT WILL PROVIDE ASSISTANCE IN A COUNTY IN THE
44 STATE IN WHICH TWENTY-FIVE PERCENT OR MORE OF RENTER HOUSEHOLDS ARE
45 BURDENED BY HIGH HOUSING COSTS AS INDICATED IN SUBDIVISION ONE OF
46 SECTION ELEVEN HUNDRED FIFTY-FIVE OF THIS ARTICLE; AND

47 (E) THE ELIGIBLE PROJECT WILL MAKE CONDOMINIUM, COOPERATIVE, OR RENTAL
48 OPPORTUNITIES AFFORDABLE TO PERSONS AND FAMILIES FOR WHOM THE ORDINARY
49 OPERATIONS OF PRIVATE ENTERPRISE CANNOT PROVIDE SAFE, SANITARY AND
50 AFFORDABLE DWELLING ACCOMMODATIONS AS DEFINED BY SUBDIVISION FOUR OF
51 SECTION ELEVEN HUNDRED FIFTY-FIVE OF THIS ARTICLE.

52 12. (A) THE AGENCY MAY MAKE NON-INTEREST BEARING ADVANCES TO SPONSORS
53 TO DEFRAY THE PRE-DEVELOPMENT COSTS OF ELIGIBLE PROJECTS IN ACCORDANCE
54 WITH THE PROVISIONS OF THIS CHAPTER.

55 (B) NO SUCH ADVANCE SHALL BE MADE UNLESS THE AGENCY FINDS THAT: (I)
56 THE SPONSOR PROPOSES TO FINANCE THE ELIGIBLE PROJECT IN WHOLE OR IN PART

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1 BY A LOAN GRANTED PURSUANT TO THIS ARTICLE OR THAT THE PROJECT, IF
2 OTHERWISE FINANCED WILL PROVIDE HOUSING FOR PERSONS AND FAMILIES FOR
3 WHOM THE ORDINARY OPERATIONS OF PRIVATE ENTERPRISE CANNOT PROVIDE SAFE,
4 SANITARY AND AFFORDABLE DWELLING ACCOMMODATIONS, AND THAT SUCH PROJECT
5 IS OTHERWISE CONSISTENT WITH THE PURPOSES OF THIS ARTICLE; (II) THE
6 PROJECT SITE IS SUITABLE, THE PROJECT SITE IS LOCATED IN A COUNTY IN
7 WHICH TWENTY-FIVE PERCENT OR MORE OF RENTER HOUSEHOLDS ARE BURDENED BY
8 HIGH HOUSING COSTS AS DEFINED BY SUBDIVISION ONE OF SECTION ELEVEN
9 HUNDRED FIFTY-FIVE OF THIS ARTICLE, AND THE PROJECT IS FEASIBLE; AND
10 (III) IT IS REASONABLE TO ANTICIPATE THAT FINANCING WILL BE OBTAINED AND
11 THE AGENCY MAKES A FINDING TO THAT EFFECT.

12 (C) NO SUCH ADVANCES MAY BE MADE TO A SPONSOR UNLESS SUCH SPONSOR

13 ENTERS INTO AN AGREEMENT WITH THE AGENCY WHICH PROVIDES THAT SUCH SPON-
14 SOR SHALL BE REGULATED WITH RESPECT TO RENTS, PROFITS, DIVIDENDS, AND
15 DISPOSITION OF ITS PROPERTY OR FRANCHISE, IN ACCORDANCE WITH THE
16 PROVISIONS OF THIS ARTICLE.

17 (D) AN ADVANCE GRANTED PURSUANT TO THIS SECTION SHALL BE USED ONLY TO
18 DEFRAY THE PRE-DEVELOPMENT COSTS OF ELIGIBLE PROJECTS. FOR PURPOSES OF
19 THIS SUBDIVISION, THE TERM PRE-DEVELOPMENT COSTS SHALL INCLUDE, BUT
20 SHALL NOT BE LIMITED TO: THE REASONABLE AND NECESSARY COSTS FOR PLAN-
21 NING, SITE PREPARATION, DEVELOPING ARCHITECTURAL DRAWINGS AND CONDUCTING
22 ENGINEERING AND ENVIRONMENTAL STUDIES, BUT SHALL NOT INCLUDE ACQUISITION
23 OF LAND OR BUILDINGS, DRAINAGE AND LANDSCAPING OF VACANT LAND,
24 CONSTRUCTION OF NEW BUILDINGS, OR REHABILITATION OF EXISTING BUILDINGS.

25 (E) EACH SUCH ADVANCE SHALL BE REPAYED IN FULL TO THE AGENCY BY THE
26 SPONSOR. SUCH REPAYMENT SHALL BE MADE UPON RECEIPT BY THE SPONSOR OR ITS
27 SUCCESSOR IN INTEREST OF THE PROCEEDS OF ITS MORTGAGE OR CONSTRUCTION
28 LOAN FOR THE ELIGIBLE PROJECT, UNLESS THE AGENCY EXTENDS THE PERIOD FOR
29 THE REPAYMENT OF SUCH ADVANCE. IN NO EVENT SHALL THE TIME OF REPAYMENT
30 BE EXTENDED TO A DATE LATER THAN THE DATE OF FINAL ADVANCE OF FUNDS
31 PURSUANT TO SUCH MORTGAGE OR CONSTRUCTION LOAN.

32 (F) IF THE AGENCY, IN ITS DISCRETION, DETERMINES AT ANY TIME THAT
33 MORTGAGE OR CONSTRUCTION FINANCING FOR THE ELIGIBLE PROJECT MAY NOT BE
34 OBTAINED, THEN ALL ADVANCES MADE TO THE SPONSOR PURSUANT TO THIS SUBDI-
35 VISION SHALL BECOME IMMEDIATELY DUE AND PAYABLE UPON THE DEMAND OF THE
36 AGENCY.

37 13. ANY PAYMENTS OF PRINCIPAL AND INTEREST ON, AND ANY PREPAYMENTS OF,
38 THE AGENCY`S SHARE OF THE LOAN, ANY REPAYMENTS OF ADVANCES MADE BY THE
39 AGENCY, AND ANY OTHER FUNDS RECEIVED BY THE AGENCY AS A RESULT OF A LOAN
40 OR ADVANCE MADE PURSUANT TO THIS ARTICLE SHALL BE DEPOSITED BY THE AGEN-
41 CY INTO THE ACCOUNT FROM WHICH THE LOAN OR ADVANCE WAS MADE AND SHALL BE
42 AVAILABLE FOR MAKING ADDITIONAL AFFORDABLE MULTI-FAMILY HOUSING DEVELOP-
43 MENT LOANS AND ADVANCES IN FURTHERANCE OF THE PURPOSES OF THIS ARTICLE.

44 14. IF THE ELIGIBLE PROJECT IS A RENTAL PROJECT, THE BOND OR NOTE AND
45 MORTGAGE OR BONDS OR NOTES OR MORTGAGES ISSUED BY THE SPONSOR OF ANY
46 ELIGIBLE PROJECT TO SECURE A PARTICIPATION LOAN MAY PROVIDE THAT THE
47 AGENCY`S PORTION OF SUCH LOAN AND, IF ANY, A MUNICIPALITY`S PORTION OF
48 SUCH LOAN, SHALL BE REDUCED TO ZERO COMMENCING ON THE FIFTEENTH YEAR
49 AFTER THE EXECUTION OF SUCH BOND OR NOTE AND MORTGAGE OR BONDS OR NOTES
50 OR MORTGAGES, PROVIDED THAT, AS OF THE DATE OF ANY SUCH REDUCTION, THE
51 ELIGIBLE PROJECT HAS BEEN AND CONTINUES TO BE OWNED AND OPERATED IN A
52 MANNER CONSISTENT WITH A REGULATORY AGREEMENT WITH THE AGENCY AND, IF
53 ANY, THE PARTICIPATING MUNICIPALITY. NOTWITHSTANDING SUCH PROVISION AS
54 CONTAINED IN THE BOND OR NOTE AND MORTGAGE OR BONDS OR NOTES OR MORT-
55 GAGES, THE AGENCY`S PORTION OF THE LOAN SHALL BE REDUCED TO ZERO ONLY
56 IF, PRIOR TO THE SIMULTANEOUS DELIVERY OF SUCH BOND OR NOTE AND MORTGAGE

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1 OR BONDS OR NOTES OR MORTGAGES, THE AGENCY MADE A WRITTEN DETERMINATION
2 THAT SUCH REDUCTION WOULD BE NECESSARY TO ENSURE THE CONTINUED AFFORDA-
3 BILITY OR ECONOMIC VIABILITY OF THE ELIGIBLE PROJECT. SUCH WRITTEN
4 DETERMINATION SHALL DOCUMENT THE BASIS ON WHICH THE AGENCY`S PORTION OF
5 THE LOAN WAS DETERMINED TO BE ELIGIBLE FOR EVAPORATION. NOTWITHSTANDING
6 SUCH PROVISION AS CONTAINED IN THE BOND OR NOTE AND MORTGAGE OR BONDS OR
7 NOTES OR MORTGAGES, A MUNICIPALITY`S PORTION OF THE LOAN SHALL BE
8 REDUCED TO ZERO ONLY IF, PRIOR TO THE SIMULTANEOUS DELIVERY OF SUCH BOND
9 OR NOTE AND MORTGAGE OR BONDS OR NOTES OR MORTGAGES, THE MUNICIPALITY
10 MADE A WRITTEN DETERMINATION THAT SUCH REDUCTION WOULD BE NECESSARY TO
11 ENSURE THE CONTINUED AFFORDABILITY OR ECONOMIC VIABILITY OF THE ELIGIBLE
12 PROJECT. SUCH WRITTEN DETERMINATION SHALL DOCUMENT THE BASIS ON WHICH

13 THE MUNICIPALITY'S PORTION OF THE LOAN WAS DETERMINED TO BE ELIGIBLE FOR
14 EVAPORATION.

15 S 1157. AGENCY PROGRAMS FOR DEVELOPMENT OF AFFORDABLE MULTI-FAMILY
16 HOUSING. 1. THERE IS HEREBY ESTABLISHED WITHIN THE STATE OF NEW YORK
17 MORTGAGE AGENCY A LOAN PROGRAM TO CARRY OUT THE PURPOSES OF THIS ARTI-
18 CLE. THE AGENCY SHALL ISSUE AND PROMULGATE RULES AND REGULATIONS FOR THE
19 ADMINISTRATION OF THIS PROGRAM. IN ADDITION TO USING FUNDS AVAILABLE IN
20 THE AGENCY'S AFFORDABLE HOUSING DEVELOPMENT ACCOUNT ESTABLISHED PURSUANT
21 TO SECTION TWENTY-FOUR HUNDRED FIVE-F OF THE PUBLIC AUTHORITIES LAW, AND
22 IN ADDITION TO THE POWERS GRANTED TO THE AGENCY BY SECTION TWENTY-FOUR
23 HUNDRED FOUR OF SUCH LAW, THE AGENCY SHALL HAVE THE POWER TO ISSUE BONDS
24 AND NOTES, THE INTEREST ON WHICH MAY BE TAXABLE OR TAX-EXEMPT AS THE
25 AGENCY MAY DETERMINE, AND TO USE THE PROCEEDS FROM THE SALE THEREOF TO
26 MAKE LOANS OR PARTICIPATE IN LOANS IN ACCORDANCE WITH AND IN FURTHERANCE
27 OF THIS ARTICLE. THE AGENCY MAY DELEGATE THE AUTHORITY PROVIDED TO IT BY
28 THIS SUBDIVISION TO MAKE LOANS OR PARTICIPATE IN LOANS TO THE NEW YORK
29 STATE HOUSING FINANCE AGENCY FOR THE PURPOSES OF IMPLEMENTING THIS
30 PROGRAM ON BEHALF OF THE AGENCY.

31 2. THERE IS HEREBY ESTABLISHED WITHIN THE NEW YORK STATE HOUSING
32 FINANCE AGENCY A LOAN PROGRAM TO CARRY OUT THE PURPOSES OF THIS ARTICLE.
33 THE AGENCY SHALL ISSUE AND PROMULGATE RULES AND REGULATIONS FOR THE
34 ADMINISTRATION OF THIS PROGRAM. IN ADDITION TO USING FUNDS AVAILABLE IN
35 THE AGENCY'S AFFORDABLE HOUSING DEVELOPMENT ACCOUNT ESTABLISHED PURSUANT
36 TO SECTION FIFTY-NINE-J OF THIS CHAPTER, AND IN ADDITION TO THE POWERS
37 GRANTED TO THE AGENCY BY SECTION FORTY-FOUR OF ARTICLE THREE OF SUCH
38 LAW, THE AGENCY SHALL HAVE THE POWER TO ISSUE BONDS AND NOTES, THE
39 INTEREST ON WHICH MAY BE TAXABLE OR TAX-EXEMPT AS THE AGENCY MAY DETER-
40 MINE, AND TO USE THE PROCEEDS FROM THE SALE THEREOF TO MAKE LOANS OR
41 PARTICIPATE IN LOANS IN ACCORDANCE WITH AND IN FURTHERANCE OF THIS ARTI-
42 CLE.

43 S 1158. GENERAL PROVISIONS. IF ANY CLAUSE, SENTENCE, PARAGRAPH,
44 SECTION, OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF
45 COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT,
46 IMPAIR, OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN
47 ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION, OR PART THER-
48 EOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL
49 HAVE BEEN RENDERED.

50 S 58. Section 210 of the tax law is amended by adding a new subdivi-
51 sion 36 to read as follows:

52 36. NEIGHBORHOOD ASSISTANCE PROGRAM CREDIT. (A) THE COMMISSIONER SHALL
53 GRANT A CREDIT AGAINST ANY TAX DUE UNDER THIS ARTICLE TO ANY BUSINESS
54 FIRM WHICH CONTRIBUTES TO A NEIGHBORHOOD ORGANIZATION WHICH ENGAGES IN
55 THE ACTIVITIES OF PROVIDING NEIGHBORHOOD ASSISTANCE INCLUDING BUT NOT
56 LIMITED TO: COMPREHENSIVE SERVICE PROJECTS, JOB TRAINING OR EDUCATION

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30

1 FOR INDIVIDUALS, COMMUNITY SERVICES, CRIME PREVENTION, OR REHABILI-
2 TATION, EXPANSION OR IMPROVEMENTS TO BUILDINGS OR LAND LOCATED WITHIN
3 ECONOMICALLY DISTRESSED AREAS TO BE DETERMINED BY THE COMMISSIONER AND
4 THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

5 (B) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF THE
6 DIVISION OF HOUSING AND COMMUNITY RENEWAL, SHALL ESTABLISH CRITERIA FOR
7 THE APPROVAL OF PROPOSALS FOR A TAX CREDIT UNDER THIS SUBDIVISION FOR
8 BUSINESS FIRMS MAKING CONTRIBUTIONS OF CAPITAL TO ANY NOT-FOR-PROFIT
9 COMMUNITY-BASED DEVELOPMENT CORPORATION INCLUDING A RURAL PRESERVATION
10 COMPANY OR NEIGHBORHOOD PRESERVATION COMPANY. THE PROPOSAL SHALL SET
11 FORTH THE PROGRAM TO BE CONDUCTED, THE GEOGRAPHIC AREA, THE ESTIMATED
12 AMOUNT TO BE INVESTED IN THE PROGRAM AND THE PLANS FOR IMPLEMENTING THE

13 PROGRAM. THE COMMISSIONER SHALL APPROVE OR DISAPPROVE PROPOSALS IN WRIT-
14 ING WITHIN SIXTY DAYS AND SHALL STATE THE MAXIMUM AMOUNT OF CREDIT
15 AVAILABLE. THE AMOUNT OF THE TAX CREDIT VOUCHER SHALL EQUAL ONE-HALF THE
16 AMOUNT OF THE CONTRIBUTION.

17 (C) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO PREVENT TWO OR
18 MORE BUSINESS FIRMS FROM PARTICIPATING JOINTLY IN ONE OR MORE PROGRAMS
19 UNDER THE PROVISIONS OF THIS SUBDIVISION.

20 (D) THE SUM OF ALL TAX CREDITS GRANTED PURSUANT TO THE PROVISIONS OF
21 THIS SUBDIVISION SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS ANNUALLY
22 PER BUSINESS FIRM.

23 (E) NO TAX CREDIT SHALL BE GRANTED TO ANY BANK, BANK AND TRUST COMPA-
24 NY, INSURANCE COMPANY, TRUST COMPANY, NATIONAL BANK, SAVINGS ASSOCI-
25 ATION, OR BUILDINGS AND LOAN ASSOCIATION OR ANY OTHER BUSINESS ENTITY
26 FOR ACTIVITIES THAT ARE A PART OF ITS ORDINARY COURSE OF BUSINESS.

27 (F) ANY TAX CREDIT NOT USED DURING THE PERIOD WITHIN WHICH ITS
28 CONTRIBUTION WAS MADE MAY BE CARRIED FORWARD OR BACKWARD FOR THE FIVE
29 IMMEDIATELY SUCCEEDING OR PRECEDING CALENDAR OR FISCAL YEARS UNTIL THE
30 FULL CREDIT HAS BEEN ALLOWED.

31 (G) NO NEIGHBORHOOD PRESERVATION COMPANY, RURAL PRESERVATION COMPANY,
32 OR OTHER COMMUNITY-BASED DEVELOPMENT CORPORATION, WITH RESPECT TO WHICH
33 TAX CREDITS MAY BE ALLOWED UNDER THIS SUBDIVISION, SHALL BE ALLOWED TO
34 RECEIVE CAPITAL WITH AN AGGREGATE VALUE IN EXCESS OF ONE HUNDRED FIFTY
35 THOUSAND DOLLARS FOR ANY FISCAL YEAR.

36 S 59. Section 1456 of the tax law is amended by adding a new
37 subsection (t) to read as follows:

38 (T) NEIGHBORHOOD ASSISTANCE PROGRAM CREDIT. (1) THE COMMISSIONER SHALL
39 GRANT A CREDIT AGAINST ANY TAX DUE UNDER THIS ARTICLE TO ANY BUSINESS
40 FIRM WHICH CONTRIBUTES TO A NEIGHBORHOOD ORGANIZATION WHICH ENGAGES IN
41 THE ACTIVITIES OF PROVIDING NEIGHBORHOOD ASSISTANCE INCLUDING BUT NOT
42 LIMITED TO: COMPREHENSIVE SERVICE PROJECTS, JOB TRAINING OR EDUCATION
43 FOR INDIVIDUALS, COMMUNITY SERVICES, CRIME PREVENTION, OR REHABILI-
44 TATION, EXPANSION OR IMPROVEMENTS TO BUILDING OR LAND LOCATED WITHIN
45 ECONOMICALLY DISTRESSED AREAS TO BE DETERMINED BY THE COMMISSIONER AND
46 THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

47 (2) THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF THE
48 DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH CRITERIA FOR
49 THE APPROVAL OF PROPOSALS FOR A TAX CREDIT UNDER THIS SUBSECTION FOR
50 BUSINESS FIRMS MAKING CONTRIBUTIONS OF CAPITAL TO ANY NOT-FOR-PROFIT
51 COMMUNITY-BASED DEVELOPMENT CORPORATION INCLUDING A RURAL PRESERVATION
52 COMPANY OR NEIGHBORHOOD PRESERVATION COMPANY. THE PROPOSAL SHALL SET
53 FORTH THE PROGRAM TO BE CONDUCTED, THE GEOGRAPHIC AREA, THE ESTIMATED
54 AMOUNT TO BE INVESTED IN THE PROGRAM AND THE PLANS FOR IMPLEMENTING THE
55 PROGRAM. THE COMMISSIONER SHALL APPROVE OR DISAPPROVE PROPOSALS IN WRIT-
56 ING WITHIN SIXTY DAYS AND SHALL STATE THE MAXIMUM AMOUNT OF CREDIT

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31

1 AVAILABLE. THE AMOUNT OF THE TAX CREDIT VOUCHER SHALL EQUAL ONE-HALF THE
2 AMOUNT OF THE CONTRIBUTION.

3 (3) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PREVENT TWO OR
4 MORE BUSINESS FIRMS FROM PARTICIPATING JOINTLY IN ONE OR MORE PROGRAMS
5 UNDER THE PROVISIONS OF THIS SUBSECTION.

6 (4) THE SUM OF ALL TAX CREDITS GRANTED PURSUANT TO THE PROVISIONS OF
7 THIS SUBSECTION SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS ANNUALLY
8 PER BUSINESS FIRM.

9 (5) NO TAX CREDIT SHALL BE GRANTED TO ANY BANK, BANK AND TRUST COMPA-
10 NY, INSURANCE COMPANY, TRUST COMPANY, NATIONAL BANK, SAVINGS ASSOCI-
11 ATION, OR BUILDINGS AND LOAN ASSOCIATION OR ANY OTHER BUSINESS ENTITY
12 FOR ACTIVITIES THAT ARE A PART OF ITS ORDINARY COURSE OF BUSINESS.

13 (6) ANY TAX CREDIT NOT USED DURING THE PERIOD WITHIN WHICH ITS
14 CONTRIBUTION WAS MADE MAY BE CARRIED FORWARD OR BACKWARD FOR THE FIVE
15 IMMEDIATELY SUCCEEDING OR PRECEDING CALENDAR OR FISCAL YEARS UNTIL THE
16 FULL CREDIT HAS BEEN ALLOWED.

17 (7) NO NEIGHBORHOOD PRESERVATION COMPANY, RURAL PRESERVATION COMPANY,
18 OR OTHER COMMUNITY-BASED DEVELOPMENT CORPORATION, WITH RESPECT TO WHICH
19 TAX CREDITS MAY BE ALLOWED UNDER THIS SUBSECTION, SHALL BE ALLOWED TO
20 RECEIVE CAPITAL WITH AN AGGREGATE VALUE IN EXCESS OF ONE HUNDRED FIFTY
21 THOUSAND DOLLARS FOR ANY FISCAL YEAR.

22 S 60. Section 1511 of the tax law is amended by adding a new subdivi-
23 sion (x) to read as follows:

24 (X) NEIGHBORHOOD ASSISTANCE PROGRAM CREDIT. (1) THE COMMISSIONER SHALL
25 GRANT A CREDIT AGAINST ANY TAX DUE UNDER THIS ARTICLE TO ANY BUSINESS
26 FIRM WHICH CONTRIBUTES TO A NEIGHBORHOOD ORGANIZATION WHICH ENGAGES IN
27 THE ACTIVITIES OF PROVIDING NEIGHBORHOOD ASSISTANCE INCLUDING BUT NOT
28 LIMITED TO: COMPREHENSIVE SERVICE PROJECTS, JOB TRAINING OR EDUCATION
29 FOR INDIVIDUALS, COMMUNITY SERVICES, CRIME PREVENTION, OR REHABILI-
30 TATION, EXPANSION OR IMPROVEMENTS TO BUILDING OR LAND LOCATED WITHIN
31 ECONOMICALLY DISTRESSED AREAS TO BE DETERMINED BY THE COMMISSIONER AND
32 THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

33 (2) THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF THE
34 DIVISION OF HOUSING AND COMMUNITY RENEWAL SHALL ESTABLISH CRITERIA FOR
35 THE APPROVAL OF PROPOSALS FOR A TAX CREDIT UNDER THIS SUBDIVISION FOR
36 BUSINESS FIRMS MAKING CONTRIBUTIONS OF CAPITAL TO ANY NOT-FOR-PROFIT
37 COMMUNITY-BASED DEVELOPMENT CORPORATION INCLUDING A RURAL PRESERVATION
38 COMPANY OR NEIGHBORHOOD PRESERVATION COMPANY. THE PROPOSAL SHALL SET
39 FORTH THE PROGRAM TO BE CONDUCTED, THE GEOGRAPHIC AREA, THE ESTIMATED
40 AMOUNT TO BE INVESTED IN THE PROGRAM AND THE PLANS FOR IMPLEMENTING THE
41 PROGRAM. THE COMMISSIONER SHALL APPROVE OR DISAPPROVE PROPOSALS IN WRIT-
42 ING WITHIN SIXTY DAYS AND SHALL STATE THE MAXIMUM AMOUNT OF CREDIT
43 AVAILABLE. THE AMOUNT OF THE TAX CREDIT VOUCHER SHALL EQUAL ONE-HALF THE
44 AMOUNT OF THE CONTRIBUTION.

45 (3) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO PREVENT TWO OR
46 MORE BUSINESS FIRMS FROM PARTICIPATING JOINTLY IN ONE OR MORE PROGRAMS
47 UNDER THE PROVISIONS OF THIS SUBDIVISION.

48 (4) THE SUM OF ALL TAX CREDITS GRANTED PURSUANT TO THE PROVISIONS OF
49 THIS SUBDIVISION SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS ANNUALLY
50 PER BUSINESS FIRM.

51 (5) NO TAX CREDIT SHALL BE GRANTED TO ANY BANK, BANK AND TRUST COMPA-
52 NY, INSURANCE COMPANY, TRUST COMPANY, NATIONAL BANK, SAVINGS ASSOCI-
53 ATION, OR BUILDINGS AND LOAN ASSOCIATION OR ANY OTHER BUSINESS ENTITY
54 FOR ACTIVITIES THAT ARE A PART OF ITS ORDINARY COURSE OF BUSINESS.

55 (6) ANY TAX CREDIT NOT USED DURING THE PERIOD WITHIN WHICH ITS
56 CONTRIBUTION WAS MADE MAY BE CARRIED FORWARD OR BACKWARD FOR THE FIVE

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1 IMMEDIATELY SUCCEEDING OR PRECEDING CALENDAR OR FISCAL YEARS UNTIL THE
2 FULL CREDIT HAS BEEN ALLOWED.

3 (7) NO NEIGHBORHOOD PRESERVATION COMPANY, RURAL PRESERVATION COMPANY,
4 OR OTHER COMMUNITY-BASED DEVELOPMENT CORPORATION, WITH RESPECT TO WHICH
5 TAX CREDITS MAY BE ALLOWED UNDER THIS SUBDIVISION, SHALL BE ALLOWED TO
6 RECEIVE CAPITAL WITH AN AGGREGATE VALUE IN EXCESS OF ONE HUNDRED FIFTY
7 THOUSAND DOLLARS FOR ANY FISCAL YEAR.

8 S 61. In no event shall the total amount of the tax credits allowed to
9 business firms pursuant to the provisions of subdivision 33 of section
10 210, subsection (t) of section 1456 and subdivision (x) of section 1511
11 of the tax law, in the aggregate, exceed twenty million dollars in any
12 one fiscal year. No more than fifty percent of the total amount of the

13 tax credits shall be granted for contributions made to neighborhood
14 organizations located within a city with a population of one million or
15 more.

16 S 62. This act shall take effect on the one hundred twentieth day
17 after it shall have become a law, provided that the amendments to subdi-
18 vision 13 of section 2402 of the public authorities law made by section
19 three of this act shall not affect the repeal of such subdivision and
20 shall be deemed repealed therewith, provided, however, that the amend-
21 ments to subdivision 8 of section 452 of the private housing finance law
22 made by section twenty-one of this act shall not affect the expiration
23 of such subdivision and shall be deemed to expire therewith; provided
24 further, however, that effective immediately, the addition, amendment
25 and/or repeal of any rule or regulation necessary for the implementation
26 of this act on its effective date is authorized and directed to be made
27 and completed on or before such effective date.

POLICY CHANGE CATEGORY

ECONOMIC DEVELOPMENT

DOWNTOWN REVITALIZATION ZONE INVESTMENT TAX CREDIT PROPOSAL

Support the creation of investment tax credits for qualified projects within a designated Downtown Business Revitalization Zone to encourage redirection of development to existing neighborhood centers and discourage sprawl. (Investment in downtowns on purchase of bldgs, rehabs, etc.)

Definition of a Downtown(Suffolk County Downtown Definition Legislation Attached): A downtown or a Central Business District (CBD) is that portion of a community that contains the traditional or historic business core of a community. Concentrated retail activity usually dominates the area, but office, residential and institutional uses may also be found. Stores are usually individually owned and managed. On-street parking is often supplemented by off-street parking facilities that are usually located behind the stores and in municipal parking lots.

Suffolk County Downtowns include:

Town of Babylon

Amityville CBD, Babylon CBD, Copiague CBD, Deer Park CBD, Lindenhurst CBD, North Babylon CBD, West Babylon, CBD

Town of Brookhaven

Bellport CBD, Farmingville CBD, Patchogue CBD, Port Jefferson CBD, Stony Brook CBD, Ronkonkoma CBD, Medford, Coram, Centereach, Middle Island

Town of Huntington

East Northport CBD, Huntington CBD, Huntington Station CBD

Town of Islip

Bay Shore CBD, Brentwood CBD, Central Islip CBD, East Islip CBD, East Islip CBD, Holbrook CBD, West Islip CBD, Oakdale CBD, Sayville

Town of Riverhead

Riverhead CBD

Town of Smithtown

Kings Park CBD, Smithtown CBD, Kings Park CBD,

(Or within one half mile radius of each designated area)

JUSTIFICATION

Successful downtown business centers have historically been a hallmark of quality suburban living, serving as the social and commercial centers of communities. Today, with the

proliferation of discount mega-stores, outlet shopping malls, and “big box” retailers outside the downtown area, the economies of our once-thriving downtowns are becoming more and more fragile. Without support, Main Street will continue its regression from a viable economic center, to an area fraught with high vacancy rates, vandalism and deterioration of structures.

The proposed incentive will help to reverse this trend, and provide positive fiscal impacts to the entire community. Revitalizing downtowns will facilitate an increased tax base, create new jobs, promote under-utilized, existing infrastructure and transportation centers, and preserve the history and character of the area. A Downtown Revitalization Investment Tax Credit will provide meaningful financial enticement, and encourage business people to invest new money in the location or expansion of their businesses in our deteriorating neighborhood centers.

New York State currently provides investment tax credits for businesses involved in manufacturing, processing, assembling, refining, mining, farming and commercial fishing. This new legislation is needed to ensure that our downtown areas can compete in attracting viable economic opportunities and to promote downtown as a practical alternative, so that downtowns may remain, or again become, a central driving force in the economic and social well being of our communities.

This bill would allow for the strengthening of local economies, enhancement of existing community hubs, reduction of the tax burden, and improvement of the overall quality of life. The bill is consistent with the objectives of the local communities and the County of Suffolk as a whole.

Similar to General Municipal Law (GML) Article 18-B – New York State Economic Development Zones, the proposed bill would be applicable to qualified downtown business areas. The legislation could be enacted as either a part of GML Article 18-B or as a separate Article 18-C, and renumbering of existing Article 18-C, Municipal Redevelopment Law, as Article 18-D. While economic development zones are designed to improve impoverished areas, this proposed legislation is designed to prevent downtown business areas from further deterioration and to return them to viable economic centers for their communities.

In conjunction with amending the GML, we propose amending Section 606 of the Tax Law to permit investment tax credits for qualified business expenses in a Downtown Business Revitalization Zone. Currently, Section 606 (11) entitled Retail Enterprise Tax Credit provides tax credits to certain retail enterprises. However, it does not appear to provide tax credits to businesses that should be eligible under the proposed legislation. An appropriate place to amend the Tax Law would be Section 606 by adding a new subsection §606(12), entitled Downtown Business Revitalization Tax Credit.

FISCAL IMPACT

No fiscal impact to Suffolk County

LEGISLATIVE HISTORY

Although this proposal was submitted as part of the 2003 State Legislative Agenda, no legislative action has been taken to date.

6/24/2003

Introduced by Legislators Bishop, Crecca, Lindsay, Vilorio-Fisher and Cooper

**RESOLUTION NO. 1104 -2003, TO
ESTABLISH LAND DEVELOPMENT
POLICY FOR MIXED USE SMART
GROWTH IN SUFFOLK COUNTY**

WHEREAS, the Suffolk County Legislature wishes to encourage mixed land-use development projects in areas that make sense because they are consistent with Suffolk County's Smart Growth planning principles to encourage a greater sense of community and a more efficient allocation of economic and environmental resources; now, therefore, be it

1st **RESOLVED**, if there is any proposal for adaptive reuse located in Suffolk County, defined as commercial/retail, light industry or office, or civic or institutional site (government facility, church facility, not-for-profit facility, non-profit facility, or hospital facility) which is more than 50% vacant as of December 31 of the year immediately preceding an application filed for such project pursuant to this Resolution, then the sponsor of the project shall file a copy of the proposal with the Clerk of the Suffolk County Legislature for distribution to all of the Legislators simultaneously with its filing of the proposal at the Suffolk County Department of Health Services, and the Suffolk County Department of Planning, together with a request to the County Department of Health Services and the Suffolk County Department of Planning, that its project be considered under the criteria of this Resolution. Within 60 days after the filing of the proposed project with the Clerk of the Suffolk County Legislature, the Commissioner of the County Department of Health Services and the Director of the County Department of Planning shall have sixty (60) days to issue an advisory opinion as to the eligibility of such a project. A determination shall then be made by the County of Suffolk, via duly enacted Resolution of the County of Suffolk, as to whether or not such proposed project should be considered under the criteria of this Resolution, no later than one hundred twenty (120) days subsequent to the original filing of the proposed project with the Clerk of the Suffolk County Legislature as to the eligibility of such project for such consideration;

A.) A.) If the proposed adaptive reuse consists of at least four (4) of the following proposed land uses,

- | | | |
|-----|-----|-----------------------------------|
| 1.) | 1.) | residential sale; |
| 2.) | 2.) | residential rental; |
| 3.) | 3.) | commercial/retail; |
| 4.) | 4.) | light industry or office; |
| 5.) | 5.) | affordable residential site; |
| 6.) | 6.) | affordable residential rental; or |
| 7.) | 7.) | civic and institutional site; |

then the project shall receive a 25% reduction in sewer connection fees where there is a direct discharge into a sewer system. If the sponsor is able to demonstrate that the proposed adaptive reuse land development project on ten (10) or more acres will have a sewage flow rate between 25 to 50 percent less than the Suffolk County Department of Health Services' prescribed design flow standard, then the sponsor may request a variance from the Suffolk County Department of Health Services Board of Review for a reduction in design sewage flow rates up to a maximum of 50 percent from the sewage flow rate for said project which would otherwise be applicable under the "Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other than Single Family Residences", attached hereto as Exhibit "A" and made a part hereof, anything in such standards to the contrary notwithstanding

B.) If the proposed adaptive reuse consists of at least four (4) of the following proposed land uses,

- | | | |
|-----|-----|-----------------------------------|
| 1.) | 1.) | residential sale; |
| 2.) | 2.) | residential rental; |
| 3.) | 3.) | commercial/retail; |
| 4.) | 4.) | light industry or office; |
| 5.) | 5.) | affordable residential site; |
| 6.) | 6.) | affordable residential rental; or |
| 7.) | | civic and institutional site; |

and proposes the construction of at least 15% affordable housing residential units as defined in Chapter 36 of the SUFFOLK COUNTY CODE (measured by the total number of residential housing units formally proposed for pertinent municipal approval in the first instance for the overall development project), then the project shall receive a 50% reduction in sewer connection fees where there is a direct discharge into a sewer system. If the sponsor is able to demonstrate that the proposed adaptive reuse land development project on ten (10) or more acres will have a sewage flow rate between 25 to 50 percent less than the Suffolk County Department of Health Services' prescribed design flow standard, then the sponsor may request a variance from the Suffolk County Department of Health Services Board of Review for a reduction in design sewage flow rates up to a maximum of 50 percent from the sewage flow rate for said project which would otherwise be applicable under the "Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other than Single Family Residences", attached hereto as Exhibit "A" and made a part hereof, anything in such standards to the contrary notwithstanding; and be it further

2nd **RESOLVED**, if there is any proposal for a mixed use land development project located in Suffolk County on a site of 10 or more acres, then the sponsor of the project shall file a copy of the proposal with the Clerk of the Suffolk County Legislature for distribution to all of the Legislators simultaneously with its filing of the proposal at the Suffolk County Department of Health Services, and the Suffolk County Department of Planning, together with a request to the County Department of Health Services and the Suffolk County Department of Planning, that its project be considered under the criteria of this Resolution. Within 60 days after the filing of the proposed project with the Clerk of the Suffolk County Legislature, the Commissioner of the County Department of Health Services and the Director of the County Department of Planning shall have sixty (60) days to issue an advisory opinion as to the eligibility of such a project. A determination shall then be made by the County of Suffolk, via duly enacted Resolution of the County of Suffolk, as to whether or not such proposed project should be considered under the criteria of this Resolution, no later than one hundred twenty (120) days subsequent to the original filing of the proposed project with the Clerk of the Suffolk County Legislature as to the eligibility of such project for such consideration. If the project is determined to be eligible to be considered under this program via duly enacted Resolution of the County of Suffolk, then:

A.) A.) any proposed mixed-use land development project located on a site of ten (10) or more acres shall receive a 25 percent reduction in sewer connection fees where there is a direct discharge into a sewer system. If the sponsor is able to demonstrate that the proposed mixed-use land development project on ten (10) or more acres will have a sewage flow rate between 25 to 50 percent less than the Suffolk County Department of Health Services' prescribed design flow standard, then the sponsor may request a variance from the Suffolk County Department of Health Services Board of Review for a reduction in design sewage flow rates up to a maximum of 50 percent from the sewage flow rate for said project which would otherwise be applicable under the "Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other than Single Family Residences", attached hereto as Exhibit "A" and made a part hereof, anything in such standards to the contrary notwithstanding

B.) If the proposed mixed land use development project located on a site of ten (10) or more acres consists of at least four (4) of the following proposed land uses,

- | | | |
|-----|-----|-----------------------------------|
| 1.) | 1.) | residential sale; |
| 2.) | 2.) | residential rental; |
| 3.) | 3.) | commercial/retail; |
| 4.) | 4.) | light industry or office; |
| 5.) | 5.) | affordable residential site; |
| 6.) | 6.) | affordable residential rental; or |
| 7.) | 7.) | civic and institutional site; |

and proposes the construction of at least 15% affordable housing residential units as defined in Chapter 36 of the SUFFOLK COUNTY CODE (measured by the total number of residential housing units formally proposed for pertinent municipal approval in the first instance for the overall development project), then the project shall receive a 50% reduction in sewer connection fees where there is a direct discharge into a sewer system. If the sponsor is able to demonstrate that the proposed mixed-use land development project on ten (10) or more acres will have a sewage flow rate between 25 to 50 percent less than the Suffolk County Department of Health Services' prescribed design flow standard, then the sponsor may request a variance from the Suffolk County Department of Health Services Board of Review for a reduction in design sewage flow rates up to a maximum of 50 percent from the sewage flow rate for said project which would otherwise be applicable under the "Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other than Single Family Residences", attached hereto as Exhibit "A" and made a part hereof, anything in such standards to the contrary notwithstanding; and be it further

3rd **RESOLVED**, if there is any proposal for construction of affordable housing, as defined in Chapter 36 of the SUFFOLK COUNTY CODE, on a site located within the County of Suffolk representing:

- | | | |
|-----|-----|--|
| 1.) | 1.) | at least 35% of the total number of residential housing units formally proposed for pertinent municipal approval in the first instance for the overall development project; |
| 2.) | 2.) | at least 50% of the total number of residential housing units formally proposed for pertinent municipal approval in the first instance for the overall development project; or |
| 3.) | 3.) | at least 70% of the total number of residential housing units formally proposed for pertinent municipal approval in the first instance for the overall development project; then |

the sponsor of the project shall file a copy of the proposal with the Clerk of the Suffolk County Legislature for distribution to all of the Legislators simultaneously with its filing of the proposal at the Suffolk County Department of Health Services, and the Suffolk County Department of Planning, together with a request to the County Department of Health Services and the Suffolk County Department of Planning, that its project be considered under the criteria of this Resolution. Within 60 days after the filing of the proposed project with the Clerk of the Suffolk County Legislature, the Commissioner of the County Department of Health Services and the Director of the County Department of Planning shall have sixty (60) days to issue an advisory opinion as to the eligibility of such a project. A determination shall then be made by the County of Suffolk, via duly enacted Resolution of the County of Suffolk, as to whether or not such proposed project should be considered under the criteria of this Resolution, no later than one hundred twenty (120) days subsequent to the original filing of the proposed project with the Clerk of the Suffolk County Legislature as to the eligibility of such project for such consideration;

- | | | |
|-----|-----|---|
| 1.) | 1.) | if the proposal for construction of affordable housing consists of at least 35% of the total number of residential housing units formally proposed for pertinent municipal approval in the first instance for the overall development project, then the project shall receive a 25% reduction in sewer connection fees where there is direct discharge into a sewer system; |
|-----|-----|---|

- 2.) 2.) if the proposal for construction of affordable housing consists of at least 50% of the total number of residential housing units formally proposed for pertinent municipal approval in the first instance for the overall development project, then the project shall receive a 50% reduction in sewer connection fees where there is direct discharge into a sewer system;
- 3.) 3.) if the proposal for construction of affordable housing consists of at least 70% of the total number of residential housing units formally proposed for pertinent municipal approval in the first instance for the overall development project, then the project shall receive a 50% reduction in sewer connection fees where there is direct discharge into a sewer system and the County of Suffolk may appropriate funds from the Multifaceted Land Preservation Capital Project No. 7177, for the sole and exclusive purpose of providing infrastructure improvements required by government for public health or public safety purposes in order to construct affordable housing;

and be it further

4th RESOLVED, that Suffolk County Department of Planning is hereby authorized, empowered, and directed, pursuant to Section 14-8 (A)(9) of the SUFFOLK COUNTY CHARTER, to review any application filed under this Resolution and to issue a written evaluation to the County Executive and to each member of the County Legislature regarding a proposed project's overall soundness and appropriateness for eligibility under the criteria of this Resolution, including an advisory recommendation as to the proposed application and as to the consideration of such application by the County of Suffolk; and be it further

5th RESOLVED, that the Administrative Head of a pertinent County Sewer District, where appropriate and necessary, is hereby authorized, empowered, and directed to secure any requisite approval from the New York State Department of Environmental Conservation for any action contemplated under this Resolution; and be it further

6th RESOLVED, that the Commissioner of the County Department of Health Services shall promulgate such rules and regulations as she or he deems necessary and appropriate for the implementation and enforcement of any provisions of this Resolution; and be it further

7th RESOLVED, that this Resolution shall apply to all projects proposed on or after the effective date of this Resolution; and be it further

8 th RESOLVED, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes an unlisted action pursuant to Section 617.2 of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and will not have a significant adverse impact on the environment within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW for the following reasons:

- 1.) 1.) if not used for mixed use land development purposes, the property will most likely be developed for sole residential or commercial purposes incurring far greater environmental impact than the proposed mixed use development of the site would have;
- 2.) 2.) it will provide for more efficient allocation of economic and environmental resources by implementing smart growth principles; and
- 3.) 3.) it will permit development to occur without massive net increases in the development of rapidly diminishing open space; and

furthermore, in accordance with Section 1-4(A)(1)(d) of the SUFFOLK COUNTY CHARTER and Section 279-5(C)(4) of the SUFFOLK COUNTY CODE, the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to prepare and circulate a SEQRA notice of determination of non-significance in accordance with this Resolution.

DATED: December 16, 2003

APPROVED BY:

/s/ Robert J. Gaffney
County Executive of Suffolk County

Date of Approval: December 23, 2003

POLICY CHANGE CATEGORY

ECONOMIC DEVELOPMENT

Downtown Revitalization Zone Jobs Credit

PROPOSAL

Support the creation of a downtown jobs credit for qualified projects within a designated Downtown Business Revitalization Zone. This credit would encourage the economic rejuvenation of downtown's by offering incentives to increase employment in such districts, both by creating new businesses and expanding existing ones.

JUSTIFICATION

The Tax Law presently contains no credits for increased employment specifically targeted to downtown business districts. However, the Tax Law does contain credits for employment in Economic Development Zones and Zone Equivalent Areas, which are frequently located in urban areas. The credits available under this proposal would be in addition to the credits available in those zones and would target the deteriorating downtowns found throughout suburban New York.

The addition of a new section of the Tax Law which would establish a downtown jobs credit to be allowable against tax under five Articles of the Tax Law, including:

- Article 9 – Franchise taxes on transportation and transmission companies, agricultural cooperatives, and utilities;
- Article 9-A – General business corporations;
- Article 22 – Personal income tax;
- Article 32 – Banking corporations; and
- Article 33 – Insurance corporations

New provisions in each Article would permit the application of the credit in each case and would provide for carry forwards of excess credit for up to ten years. The new jobs credit for a taxable year would consist of the sum of two components, termed the “job growth credit component” and the “job maintenance credit component”.

The job growth credit component would be available only where the taxpayer has increased employment in a downtown revitalization zone since the prior taxable year by at least 25 jobs over the total statewide employment of the taxpayer. The job growth credit component would be equal to the product of (1) the increase in the number of employees which is in excess of 25 in the downtown revitalization zone and (2) either \$500 or \$250 (termed “credit factors”). The \$500 credit factor would be applicable where the average hourly rate of compensation is in excess of \$8.00.

Where a job growth credit is allowed for such an increase in employment, and the level of employment in the downtown revitalization zone is maintained during the following taxable year, the job maintenance credit component, equal to the amount of the prior year's job growth credit component, would be allowed for the second year, in addition to

any job growth credit component earned for a further increase in employment in the second year.

FISCAL IMPACT

No fiscal impact to Suffolk County.

LEGISLATIVE HISTORY

Although this proposal was submitted as past of the 2003 State Legislative Agenda, no legislative action has been taken to date.

POLICY CHANGE CATEGORY

DEPARTMENT OF ECONOMIC DEVELOPMENT

Downtown Revitalization Zone Low Income Housing Credit

PROPOSAL

Create a Low Income Housing Credit against the franchise and income taxes under Articles 9-A (general business corporations), 22 (personal income tax), 32 (banks) and 33 (insurance companies) to encourage the construction and rehabilitation of low-income rent restricted housing in downtown revitalization zones in New York State.

JUSTIFICATION

The addition of a new article of the Public Housing Law would provide a “New York State Low Income Housing Tax Credit Program for Downtown Revitalization Zones” and would coordinate with and build upon the federal low-income housing credit which is provided in §42 of the Internal Revenue Code. As with the federal credit, the State credit would be administered by the Division of Housing and Community Renewal (DHCR).

The credit would be allowed for the construction of rent-restricted housing in New York’s downtown revitalization zones which qualify for the federal credit, or which qualify in all respects except for the tenant income test. For the federal credit, at least 20% of the residential units of a project must be occupied by tenants whose income is 50% or less of area median gross income. The State Downtown Revitalization Zone credit, however, will apply to projects where tenant income is 90% or less.

The credit would be determined by an “applicable percentage” based on prevailing interest rates and project construction cost, and is designed to yield a credit amount over 10 years which approximates 70% of the present value of the cost of the project’s low-income units. However, the credit cannot exceed the amount deemed by the Commissioner to be necessary for project feasibility.

The New York State Downtown Revitalization Zone Low Income Housing Credit would be administered in tandem with the federal low-income housing credit. This will allow the use of the State administrative structure, which is in place for servicing the federal credit, and will allow the federal credit to be leveraged to produce more low-income housing in New York. The demand for credit by New York projects exceeds the current federal cap, meaning that more low-income housing can be produced in New York. The State Downtown Revitalization Zone Low-Income Housing Credit will encourage this production by allowing the federal credit allocation to be spread to more projects, with State money filling the gaps. In addition, the State credit will allow for construction of moderate income housing not covered by the federal credit (where tenant income is more than 50% but not more than 90% of area median income).

FISCAL IMPACT

No Fiscal Impact to Suffolk County.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 State Legislative Agenda, no legislative action has been taken on this issue to date.

POLICY CHANGE CATEGORY

DEPARTMENT OF ECONOMIC DEVELOPMENT

Employer Assisted Housing Program

PROPOSAL

Support the appropriation of \$1 million for the County's new employer-assisted housing program. This State funding will allow Suffolk County to leverage federal and local contributions for the expansion of this innovative program that will assist local businesses with recruiting and retaining a qualified high-tech workforce.

JUSTIFICATION

Long Island's high-technology businesses are experiencing great difficulties in attracting and retaining a skilled workforce. While numerous programs have been established to help alleviate this growing problem, the high cost of living and lack of affordable housing on Long Island still remain the biggest obstacles to attracting and retaining skilled workers for these jobs.

The Employer Assisted Housing Program (EAHP) is a partnership between Suffolk County, FANNIE MAE, the Long Island Association, the Long Island Housing Partnership and participating Suffolk County employers. Its purpose is to assist local businesses in attracting and retaining qualified personnel by providing home purchase counseling and down payment assistance to eligible employees.

In an effort to enhance the recruitment and retention efforts of our local businesses, Suffolk County Community Development Consortium has allocated \$250,000 in HOME funds to EAHP. The Consortium consists of the following town members: Smithtown, Brookhaven, Riverhead, Southampton, East Hampton, Southold and Shelter Island. This allocation has been matched with \$250,000 from the towns of Islip, Huntington and Babylon. These funds will be used to provide eligible first-time homebuyers with assistance equivalent to 50% of a required down payment, not to exceed \$3,000 per employee. Under the program, a participating employer will match the County's contribution and the eligible employee will contribute the remaining balance.

An employer assisted housing program provides a unique opportunity for housing to become a key component in the economic development of a community. In response to the devastating loss of jobs in the defense industry during the early 1990's, Suffolk County successfully attracted numerous high-technology businesses to Long Island. Since 1992, more than 57,000 jobs have been created. Despite this major accomplishment, the demand for qualified personnel in the high-tech industry still remains a real concern. Therefore, Suffolk County requests assistance from the Governor and the Legislature in securing \$1 million to leverage federal and local contributions for the expansion of this innovative program.

FISCAL IMPACT

This proposal would generate an additional \$1,000,000 in revenue for our County Program.

LEGISLATIVE HISTORY

To date, no legislative action has been taken on this issue.

POLICY CHANGE CATEGORY

DEPARTMENT OF ECONOMIC DEVELOPMENT

Employer Sponsored Commuter Alternative Tax Credit

PROPOSAL

Support the creation of a corporate tax credit for qualified employer-based projects that promote employee participation in alternative-to-commuting programs to reduce traffic congestion.

JUSTIFICATION

One of the most significant concerns facing Long Island residents has been the increased demand placed on our existing transportation network. While the Long Island resident population has grown by only 2% since 1970, the number of registered vehicles has risen nearly 60% during that period. In fact, since the mid-70's, Nassau and Suffolk have ranked first and second in the number of vehicle registrations in New York State. According to a recent study, by the year 2020, the number of households in Suffolk County is expected to increase by 35%. Without an investment in Long Island's transportation system and improved management of travel demand, we will continue to see congested roadways and increases in travel delays during peak commuting hours.

This proposal, which is modeled after the State of New Jersey "Smart Moves for Business (SMFB) Program", will supplement other traffic remediation efforts by providing employers with tax credit incentives for voluntarily sponsoring commute alternatives for employees. By offering a maximum tax credit of \$100 per participating employee, businesses can recover costs associated with promoting the following activities for their employees: ridesharing, vanpooling, public transit, compressed work schedules, telecommuting, bicycling and walking. These tax credits would offset the costs of administration, vehicles, employee financial incentives, marketing and other program services.

An Employer-Sponsored Commute Alternative Tax Credit could be applied to such employer efforts as purchasing vans and other vehicles to be used for ridesharing or shuttles, purchasing bike racks, providing subsidies for public transportation, and coordinating flex time and ride-matching services for their employees. Under the proposal, employers would receive a tax credit for each employee who uses a commute alternative at least one day per week. Credits would be provided on an annual basis to those employers who have registered with the program, submitted an annual report, and filed necessary paperwork with their corporate tax return.

The proposed legislation can play a significant role in encouraging local businesses to offer their employees commuting choices, while at the same time advancing a transportation agenda that will keep Long Island economically competitive, environmentally friendly, and preserve our quality of life.

FISCAL IMPACT

No Fiscal Impact to Suffolk County.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 State Legislative Agenda, no legislative action has been taken on this issue.

POLICY CHANGE CATEGORY

ECONOMIC DEVELOPMENT

LI Housing Workforce Incentive Program

PROPOSAL

Suffolk County supports the enactment of state legislation S.4899 Balboni/A.8060 DiNapoli. The legislation, provides that when a local government approves the construction of five or more residential units through site plan or subdivision, that the developer provides that 10% of the total units be affordable housing units (rounding up thus five units would result in one unit affordable housing). The bill also provides for density bonuses or other incentives for builders and developers subject to this legislation. If the local government makes a finding that it would have an adverse impact upon the health, safety or environment, it would require the developer to pay into a trust fund or provide land off-site, exclusively for the development or rehabilitation of affordable housing.

JUSTIFICATION

More than one out of four households in the country, almost 24 million, confront housing cost burdens. According to the US. Dept of Housing and Urban Development (HUD), shelter costs should consume no more than approximately one-third, in high cost areas like Long Island, 35% is sometimes used as the standard of total income. It is estimated that more than one out of ten households spend more than one-half of their incomes on housing with renters even more likely to have affordability difficulties. This problem is felt most acutely in Nassau and Suffolk counties. Approximately 80% of Nassau and Suffolk's housing stock is owner-occupied single-family homes leaving an estimated 20% rental units.

On Long Island, more than 25% of households and one-third of renters pay more than 35% of their gross monthly income on their rent or mortgage. In fact, according to a study, Lack of Affordable Housing: Prescription for Disaster, which was recently conducted for the Long Island Housing Partnership, ratios of gross rent-to-income that exceed 50% are commonplace. Unless Long Island can expand its stock of affordable workforce housing, employers will face perpetual labor shortages and the region could face constricted economic growth.

FISCAL IMPACT

None

BACKGROUND & STATISTICS

Including affordable homes within a market-rate subdivision has been an effective approach to creating affordable units across the nation and on Long Island. The fact that the development includes 90% market-rate homes helps to combat NIMBYism that often opposes developments with all "affordable homes."

LEGISLATIVE HISTORY

New bill.

2003-2004 Regular Sessions

I N A S S E M B L Y

April 14, 2003

Introduced by COMMITTEE ON RULES -- (at request of M. of A. DiNapoli, Sweeney, Thiele, Eddington, Weisenberg, Ramos, Hooper, Raia, Sidikman) -- read once and referred to the Committee on Local Governments -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Rules in accordance with Assembly Rule 3, sec. 2 -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the general municipal law, in relation to creating the Long Island workforce housing incentive program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature hereby finds that it
2 is the public policy of the state of New York to foster the goal of home
3 ownership and the provision of affordable workforce housing in areas of
4 the state, such as Long Island, where there is a shortage of such hous-
5 ing. It is further found by this legislature that local governments have
6 a responsibility to assist in the providing of a fair share of the
7 regional need for affordable housing. Further, each local government has
8 the responsibility to establish a land use plan for its community that
9 provides balanced and diverse housing options for all segments of the
10 community.

11 This act shall provide that when five or more residential units or
12 mixed-use development with five or more residential units are seeking
13 approval to be built, Long Island's local governments in exchange for a
14 density bonus on site shall require that as a condition of approval for
15 such site plans and subdivisions the provision of affordable workforce
16 housing in an amount equal to at least ten percent of the housing units
17 be set aside. In the alternative, where a local government determines
18 that the provision of suitable affordable workforce housing may not be

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 provided on site, that in lieu of said requirement, in exchange for a
2 density bonus, either a payment may be made of a reasonable sum to be
3 determined by the local government for the purpose of affordable work-
4 force housing, which sum shall constitute a trust fund for that purpose,
5 or other land and affordable workforce housing units constructed thereon
6 may be provided off-site. It is the intent of the legislature that the
7 density bonus offered by local governments pursuant to this act shall
8 contribute significantly to the economic feasibility of affordable work-
9 force housing in new residential or mixed-use developments.

10 S 2. The general municipal law is amended by adding a new article 16-A
11 to read as follows:

12 ARTICLE 16-A

13 LONG ISLAND WORKFORCE HOUSING INCENTIVE PROGRAM

14 SECTION 699. DEFINITIONS.

15 699-A. LONG ISLAND WORKFORCE HOUSING INCENTIVE PROGRAM.

16 699-B. TECHNICAL ASSISTANCE FOR LONG ISLAND WORKFORCE HOUSING
17 INCENTIVE PROGRAM.

18 S 699. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS SHALL
19 MEAN:

20 1. "AFFORDABLE WORKFORCE HOUSING" MEANS HOUSING FOR INDIVIDUALS OR
21 FAMILIES AT OR BELOW EIGHTY PERCENT OF THE MEDIAN INCOME FOR THE NASSAU
22 SUFFOLK PRIMARY METROPOLITAN STATISTICAL AREA AS DEFINED BY THE FEDERAL
23 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. FOR THE PURPOSES OF THIS
24 SECTION, THE AFFORDABLE WORKFORCE HOUSING UNITS SHALL BE OF CONSISTENT
25 DESIGN TO THOSE OF THE REST OF THE DEVELOPMENT.

26 2. "DENSITY BONUS" MEANS A DENSITY INCREASE OF AT LEAST TEN PERCENT,
27 UNLESS A LESSER PERCENTAGE IS ELECTED BY THE APPLICANT OVER THE OTHER-
28 WISE MAXIMUM ALLOWABLE RESIDENTIAL DENSITY OR FLOOR AREA RATIO IF PART
29 OF A MIXED-USE DEVELOPMENT UNDER THE APPLICABLE ZONING ORDINANCE AND
30 COMPREHENSIVE PLAN AS OF THE DATE OF APPLICATION BY THE APPLICANT TO THE
31 LOCAL GOVERNMENT. ALL DENSITY CALCULATIONS RESULTING IN FRACTIONAL UNITS
32 SHALL BE ROUNDED UP TO THE NEXT WHOLE NUMBER. THE GRANTING OF A DENSITY
33 BONUS SHALL NOT REQUIRE, IN AND OF ITSELF, A COMPREHENSIVE PLAN AMEND-
34 MENT, ZONING CHANGE OR OTHER DISCRETIONARY APPROVAL. THE DENSITY BONUS
35 SHALL NOT BE INCLUDED WHEN DETERMINING THE NUMBER OF AFFORDABLE WORK-
36 FORCE HOUSING UNITS THAT CONSTITUTE TEN PERCENT OF THE TOTAL.

37 3. "LOCAL GOVERNMENT" MEANS THE COUNTIES OF NASSAU OR SUFFOLK, OR ANY
38 VILLAGE, CITY OR TOWN WITHIN SUCH COUNTIES.

39 S 699-A. LONG ISLAND WORKFORCE HOUSING INCENTIVE PROGRAM. 1. WHEN A
40 LOCAL GOVERNMENT APPROVES A SUBDIVISION PLAT OR SITE PLAN FOR FIVE OR
41 MORE RESIDENTIAL UNITS OR A MIXED-USE DEVELOPMENT THAT INCORPORATES FIVE
42 OR MORE RESIDENTIAL UNITS, SUCH LOCAL GOVERNMENT SHALL REQUIRE OF THE
43 APPLICANT:

44 A. IN EXCHANGE FOR A DENSITY BONUS, THE SET ASIDE OF AT LEAST TEN
45 PERCENT OF SUCH UNITS FOR AFFORDABLE WORKFORCE HOUSING ON SITE; OR

46 B. UPON THE LOCAL GOVERNMENT MAKING A FINDING THAT THE SET ASIDE OF AT
47 LEAST TEN PERCENT OF SUCH UNITS FOR AFFORDABLE WORKFORCE HOUSING WOULD
48 HAVE A SPECIFIC ADVERSE IMPACT UPON HEALTH, SAFETY OR THE ENVIRONMENT
49 FOR WHICH THERE IS NO FEASIBLE METHOD TO SATISFACTORILY MITIGATE OR
50 AVOID THE SPECIFIC ADVERSE IMPACT, THE PAYMENT OF A REASONABLE FEE,
51 BASED UPON THE FAIR MARKET VALUE OF THE ADDITIONAL LOTS OR UNITS RESULT-
52 ING FROM THE DENSITY BONUS, TO THE LOCAL GOVERNMENT THAT SHALL CONSTI-
53 TUTE A TRUST FUND TO BE USED EXCLUSIVELY BY THE LOCAL GOVERNMENT FOR THE
54 PURPOSE OF PROVIDING AFFORDABLE WORKFORCE HOUSING BY ACQUIRING LAND FOR
55 THE SPECIFIC PURPOSE OF PROVIDING AFFORDABLE WORKFORCE HOUSING OR
56 CONSTRUCTING AFFORDABLE WORKFORCE HOUSING; OR REHABILITATING STRUCTURES

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1 FOR THE SPECIFIC PURPOSE OF AFFORDABLE WORKFORCE HOUSING. ALL FEES
2 COLLECTED BY THE LOCAL GOVERNMENT AS PROVIDED IN THIS SECTION SHALL BE
3 IN EXCHANGE FOR A DENSITY BONUS AND SHALL BE DEPOSITED IN A SINGLE TRUST
4 FUND FOR THE LOCAL GOVERNMENT AND SHALL BE KEPT IN TRUST AND SEPARATE
5 AND APART FROM ALL OTHER MONIES. MONEYS IN SUCH TRUST FUND SHALL BE
6 DEPOSITED AND SECURED IN THE MANNER PROVIDED BY SECTION TEN OF THIS
7 CHAPTER. PENDING EXPENDITURES FROM SUCH TRUST FUND, MONEYS THEREIN MAY
8 BE INVESTED IN THE MANNER PROVIDED IN SECTION ELEVEN OF THIS CHAPTER.
9 ANY INTEREST EARNED OR CAPITAL GAIN REALIZED ON THE MONEYS SO DEPOSITED

10 OR INVESTED SHALL ACCRUE TO AND BECOME PART OF SUCH TRUST FUND; OR
11 C. IN EXCHANGE FOR A DENSITY BONUS, THE PROVISION OF OTHER LANDS AND
12 CONSTRUCTION OF THE AFFORDABLE WORKFORCE HOUSING UNITS THAT ARE NOT PART
13 OF THE SITE PLAN OR SUBDIVISION PLAT WHERE IT IS DETERMINED BY THE LOCAL
14 GOVERNMENT THAT SUITABLE AFFORDABLE WORKFORCE HOUSING CANNOT BE PROVIDED
15 ON SITE.

16 2. THE LOCAL GOVERNMENT SHALL PROVIDE AN APPLICANT, SUBJECT TO THE
17 PROVISIONS OF THIS ARTICLE, A DENSITY BONUS FOR PROVIDING THE REQUIRED
18 AFFORDABLE WORKFORCE HOUSING UNITS. THE LOCAL GOVERNMENT SHALL GRANT THE
19 ADDITIONAL DENSITY BONUS UNLESS SUCH LOCAL GOVERNMENT MAKES A WRITTEN
20 FINDING, BASED UPON SUBSTANTIAL EVIDENCE, THAT THE DENSITY BONUS IS NOT
21 REQUIRED IN ORDER TO PROVIDE AFFORDABLE WORKFORCE HOUSING OR THAT THE
22 DENSITY BONUS WOULD HAVE A SPECIFIC ADVERSE IMPACT UPON HEALTH, SAFETY
23 OR THE ENVIRONMENT FOR WHICH THERE IS NO FEASIBLE METHOD TO SATISFAC-
24 TORILY MITIGATE OR AVOID THE SPECIFIC ADVERSE IMPACT.

25 3. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, THE LOCAL
26 GOVERNMENT SHALL ADOPT AN ORDINANCE OR LOCAL LAW THAT SPECIFIES HOW THE
27 LOCAL GOVERNMENT SHALL IMPLEMENT THIS ARTICLE, INCLUDING PROVISIONS
28 SPECIFYING HOW DENSITY BONUSES WILL BE PROVIDED. THE LOCAL GOVERNMENT
29 SHALL ALSO ESTABLISH PROCEDURES FOR WAIVING OR MODIFYING DEVELOPMENT AND
30 ZONING STANDARDS THAT WOULD OTHERWISE INHIBIT THE UTILIZATION OF DENSITY
31 BONUSES ON SPECIFIC SITES. THE LOCAL GOVERNMENT'S ORDINANCE OR LOCAL
32 LAW SHALL ENSURE THE CONTINUED AFFORDABILITY OF ALL AFFORDABLE WORKFORCE
33 HOUSING UNITS FOR A PERIOD OF THIRTY YEARS, OR A LONGER PERIOD OF TIME
34 IF REQUIRED BY A MORTGAGE FINANCING ASSISTANCE PROGRAM, A MORTGAGE
35 INSURANCE PROGRAM OR A RENTAL SUBSIDY PROGRAM.

36 4. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, THE LOCAL
37 GOVERNMENT WILL DEVELOP A STRATEGY FOR UTILIZING THE MONIES IN THE TRUST
38 FUND WITHIN THREE YEARS OF SUCH MONEYS BEING COLLECTED.

39 5. A LOCAL GOVERNMENT MAY ENTER INTO INTERMUNICIPAL AGREEMENTS WITH
40 CONTIGUOUS LOCAL GOVERNMENTS TO MEET THE PURPOSES OF THIS ARTICLE.

41 S 699-B. TECHNICAL ASSISTANCE FOR LONG ISLAND WORKFORCE HOUSING INCEN-
42 TIVE PROGRAM. THE DEPARTMENT OF STATE SHALL PROVIDE, THROUGH ITS OFFICE
43 OF LOCAL GOVERNMENTS SERVICES, TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS
44 THAT ARE DRAFTING ORDINANCES AND LOCAL LAWS TO COMPLY WITH THE
45 PROVISIONS OF THIS ARTICLE.

46 S 3. This act shall take effect on the first of November next succeed-
47 ing the date on which this act shall have become a law.

POLICY CHANGE CATEGORY

DEPARTMENT OF ECONOMIC DEVELOPMENT

Power for Jobs Initiative

PROPOSAL

Support the creation of an initiative to make low-cost power available to businesses located within central business districts through a Power for Jobs initiative.

JUSTIFICATION

The cost of power has a significant effect on economic progress, employment levels, and decisions to expand or locate business enterprises. This new program would make low cost power available to Downtown Revitalization Zones and would improve economic opportunities, enhance the competitive position of downtown business districts, and encourage job development and retention.

A Power for Jobs program was initially authorized by Chapter 316 of the Laws of 1997 (Section 189 of the Economic Development Law), which provided 450 megawatts of lower cost power statewide. Additionally, Tax Law § 186-a (9) allows a tax credit equal to 100 percent of net revenues lost by the local electric distribution company that purchases and delivers power under the Power for Jobs Program. The expansion of the Power for Jobs Program to areas designated as Downtown Revitalization Zones, along with the companion Tax Law, will greatly advance economic development initiatives in these deteriorating business areas.

FISCAL IMPACT

No Fiscal Impact to Suffolk County.

LEGISLATIVE HISTORY

Although this proposal was submitted as a part of the 2003 State Legislative Agenda, no legislative action has been taken on this issue.

POLICY CHANGE CATEGORY

ECONOMIC DEVELOPMENT

Workforce Housing

PROPOSAL

Suffolk County encourages the State to pursue legislation, which would provide sales and mortgage tax waivers and mortgage recording tax waivers for developers who wish to build affordable housing.

JUSTIFICATION

On Long Island, more than 25% of households and one-third of renters pay more than 35% of their gross monthly income on their rent or mortgage. Unless Long Island can expand its stock of affordable workforce housing, employers will face perpetual labor shortages and the region could face constricted economic growth.

FISCAL IMPACT

None

BACKGROUND & STATISTICS

Approximately 80% of Nassau and Suffolk's housing stock is owner-occupied single-family homes leaving an estimated 20% rental units. If legislation could provide sales and mortgage tax waivers to developers and builders it would serve as incentive for them to build more homes, thereby increasing the workforce development housing stock.

LEGISLATIVE HISTORY

No bill yet.

POLICY CHANGE CATEGORY

CHIEF ENVIRONMENTALIST

EFC Financing Legislation Request

PROPOSAL

Support Legislation A4106-DiNapoli to amend state law to allow the Environmental Facilities Agency to offer 0% financing from the Water Pollution Control Revolving Loan Fund to Counties that have watershed plans.

JUSTIFICATION

These funds would be available for the purposes of acquiring interests in land for open space and watershed protection pursuant to a management plan. It would provide the county and other local municipal entities more favorable financing terms than is presently available.

The State has made significant investments in funds for sewage treatment plant upgrades to improve water quality across the state. Investing in watershed protection today saves tremendous treatment costs tomorrow for both drinking and surface water resources. Across the country and in New York, the best success in obtaining non-point source pollution reduction strategies has been for states to partner with local and county levels of governments, engage communities, stakeholders and together implement strategies for nonpoint source pollution reduction and watershed protection.

The state has, over the last ten years, either initiated or participated in a number of watershed or regional basin-wide planning approaches to water quality and habitat improvement with significant local government and public participation. In spite of these planning efforts nonpoint sources of pollution remain a threat to current and future water quality of the state. Therefore, it is essential that local watershed protection efforts be better supported by the state. In an effort to support locally initiated watershed preservation strategies the state proposes to assist local governments by offering zero percent financing for land protection measures which protect watersheds. As many such programs are not mandated or enforced by regulation offering extra support to municipalities by more favorable financing terms than is presently available is deemed necessary.

The watersheds identified as eligible for this assistance are referenced in Articles 49 and 56 of the ECL. Since these watersheds are recognized as having a state interest already established, offering this additional assistance is consistent with prior Legislative actions. This act concentrates its effort on prevention, reducing further potential for non-point source pollution within watersheds for either drinking water or surface water bodies of the state by assisting local governments by providing to them zero percent loans from the states Clean Water Act revolving loan program.

FISCAL IMPACT

There would be an anticipated savings to Suffolk County.

BACKGROUND

Suffolk County has made significant investments in upgrading sewage treatment plants and preserving open space to protect its underground aquifer system. These investments made by the county -- often with state and federal assistance -- to protect its watershed are anticipated to save costs associated with future treatment for both drinking water and surface water resources.

LEGISLATIVE HISTORY

This legislation, sponsored by Senator Kenneth LaValle (S1796) and Assemblyman Thomas DiNapoli (A4106) is currently before the Corporations, Authorities and Commissions committee. In 2004, Suffolk County has submitted two grant applications for Brownfield's funding to date.

2003-2004 Regular Sessions

S E N A T E - A S S E M B L Y

February 11, 2003

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. DINAPOLI, ENGLEBRIGHT, COLTON, MCENENY -- Multi-Sponsored by -- M. of A. SWEENEY -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to authorizing the environmental facilities corporation to provide loans at zero percent interest to municipalities from the water pollution control revolving fund for the purposes of acquiring interests in land for open space and watershed protection pursuant to a management program, plan, or project

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The state finds that water resources
2 are the basis for life and our economic vitality. These resources
3 support a complex web of human activities and fisheries and wildlife
4 needs that depend upon clean water. The legislature hereby finds and
5 declares that New York state's water pollution control revolving fund
6 program has successfully financed projects across the state ameliorating
7 both point and to a lesser degree nonpoint source pollution.
8 The legislature further finds that for many water bodies, having
9 improved water quality has enabled critical fish and wildlife habitat
10 resources of the state to recover, improving the economy, recreation and
11 quality of life for all residents and visitors to the state. The state

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 finds and declares that improving water quality has helped protect the
2 public health, safety and welfare of the residents of the state.
3 The legislature finds that significant investments of state funds in
4 sewage treatment plant upgrades have improved water quality across the
5 state. Further investing in watershed protection today saves tremendous
6 treatment costs tomorrow for both drinking and surface water resources.
7 The legislature finds, as is the case across the country, that the only
8 real success in obtaining nonpoint source pollution reduction strategies
9 is to partner with local and county levels of governments, engage communities and together implement strategies for nonpoint source pollution

11 reduction strategies and watershed protection.

12 Accordingly the state has, over the last ten years, either initiated
13 or participated in a number of watershed or regional basin wide
14 approaches to water quality and habitat improvement with significant
15 local government and public participation. The legislature finds that
16 in spite of these planning efforts nonpoint sources of pollution remain
17 a threat to current and future water quality of the state and that the
18 state must do more to assist local governments, or the water quality
19 goals of the state will not be obtained. Therefore, it is essential that
20 local watershed protection efforts be better supported by the state.

21 Accordingly, to encourage nonpoint source pollution reduction strate-
22 gies as part of a regional watershed planning effort the legislature
23 seeks to assist local efforts by authorizing innovative zero percent
24 financing to foster and encourage local governments to acquire and
25 protect land, easements, and other interest in land within regional
26 watersheds.

27 This act concentrates its effort on prevention, reducing further
28 potential for nonpoint source pollution within watershed for either
29 drinking water or surface waterbodies of the state by assisting local
30 governments by providing to them zero percent loans from the state's
31 clean water act revolving loan program.

32 S 2. Section 1285-j of the public authorities law is amended by adding
33 a new subdivision 14 to read as follows:

34 14. IN ADDITION TO THE POWERS GRANTED TO THE CORPORATION ELSEWHERE IN
35 THIS CHAPTER, THE CORPORATION IS AUTHORIZED TO MAKE LOANS TO MUNICI-
36 PALITIES AT AN INTEREST RATE OF ZERO PERCENT FOR ELIGIBLE PROJECTS, AS
37 DETERMINED BY THE CORPORATION IN THE ANNUAL INTENDED USE PLAN, WHERE THE
38 MUNICIPALITY IS ACQUIRING INTERESTS IN LAND FOR THE PURPOSE OF WATERSHED
39 PROTECTION PURSUANT TO A WATERSHED MANAGEMENT PLAN. FOR THE PURPOSES OF
40 THIS SUBDIVISION, A WATERSHED MANAGEMENT PLAN SHALL INCLUDE THOSE PLANS
41 ENUMERATED IN SUBDIVISION ONE OF SECTION 56-0303 OF THE ENVIRONMENTAL
42 CONSERVATION LAW, AND THE PROVISIONS OF THE STATE OPEN SPACE PLAN RELAT-
43 ING TO WATERSHED PROTECTION PURSUANT TO SECTION 49-0207 OF THE ENVIRON-
44 MENTAL CONSERVATION LAW. THE FINAL MATURITY OF SUCH LOANS SHALL NOT BE
45 MORE THAN TWENTY YEARS FOLLOWING THE DATE OF THE LOAN. THE PRINCIPAL
46 PAYMENTS SHALL COMMENCE NO EARLIER THAN ONE YEAR AFTER THE DATE OF THE
47 LOAN. THE MUNICIPALITY SHALL BE REQUIRED TO ESTABLISH A DEDICATED SOURCE
48 OF REVENUE TO REPAY A LOAN MADE UNDER THIS SUBDIVISION UNLESS OTHERWISE
49 DETERMINED BY THE CORPORATION OR DIRECTED BY THE COMMISSIONER OF ENVI-
50 RONMENTAL CONSERVATION PURSUANT TO SUBDIVISION EIGHT OF SECTION 17-1909
51 OF THE ENVIRONMENTAL CONSERVATION LAW.

52 S 3. This act shall take effect immediately.

POLICY CHANGE

LEGISLATOR DAVID BISHOP

OB-GYN Immunity Bill

PROPOSAL

Oppose OB-GYN Immunity Bill (A8922/S5365), a bill that would shield physicians from liability for their malpractice.

JUSTIFICATION

Because the bill does not have a funding mechanism to pay for the damage caused by malpractice, such as to infants who require lifetime care etc., the net result will likely be a cost shifting from insurance companies to Medicaid. Moreover when a patient from a County Clinic is damaged by a physician and the physician's liability is capped the plaintiff-injured party will turn their full attention to tagging the County or hospital with their liability, another likely cost shifting from doctor's insurance companies to the County. Without more protection for municipal health care providers this bill will be a disaster for Suffolk taxpayers.

FISCAL IMPACT

This proposal would have a tremendous negative impact on Suffolk County.

LEGISLATIVE HISTORY

This legislation is currently before the State Assembly and Senate codes committee.

2003-2004 Regular Sessions

I N A S S E M B L Y

June 11, 2003

Introduced by COMMITTEE ON RULES -- (at request of M. of A. DiNapoli,
Klein) -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to limiting the personal liability of obstetricians and gynecologists in certain cases and the qualifications of expert witnesses who testify in personal injury actions against such physicians; the state finance law, in relation to establishing the impaired infant compensation fund; and the social services law, in relation to the eligibility of impaired infants for the cost of medical assistance

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The civil practice law and rules is amended by adding a new
2 article 75-B to read as follows:

3 ARTICLE 75-B
4 LIABILITY FOR DAMAGES IN MEDICAL MALPRACTICE ACTIONS AGAINST
5 OBSTETRICIANS AND GYNECOLOGISTS

6 SECTION 7580. DEFINITIONS.
7 7581. APPLICABILITY.
8 7582. LIMITATION ON LIABILITY.
9 7583. INSTRUCTIONS TO JURY.

10 S 7580. DEFINITIONS. AS USED IN THIS ARTICLE: (A) "PERSONAL INJURY
11 ACTION AGAINST AN OBSTETRICIAN OR GYNECOLOGIST" MEANS ANY MEDICAL MALP-
12 RACTICE ACTION ACCRUING ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE
13 AGAINST A PHYSICIAN WHO IS BOARD CERTIFIED TO ENGAGE IN PRACTICE IN THE
14 SPECIALTY OF OBSTETRICS OR GYNECOLOGY, WHETHER SUCH ACTION IS ALLEGED IN
15 TORT, CONTRACT, COMMON LAW, CASE LAW, STATUTE OR OTHERWISE, AND IN WHICH
16 THE PLAINTIFF OR PLAINTIFFS SEEK NON-ECONOMIC AND/OR ACTUAL ECONOMIC
17 DAMAGES AS A RESULT OF THE NEGLIGENCE OR OTHER MISCONDUCT OF THE ATTEND-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 ING PHYSICIAN, OR A PHYSICIAN ASSISTING THE ATTENDING PHYSICIAN WHICH IS
2 ALLEGED TO HAVE CAUSED AN INJURY TO AN INFANT PRIOR TO, DURING, OR IMME-
3 DIATELY AFTER HIS OR HER BIRTH OR DELIVERY.

4 (B) "NON-ECONOMIC DAMAGES" MEANS SUBJECTIVE, NON-PECUNIARY DAMAGES
5 ARISING FROM PAIN, SUFFERING, INCONVENIENCE, PHYSICAL IMPAIRMENT OR
6 DISFIGUREMENT, MENTAL ANGUISH, EMOTIONAL DISTRESS, LOSS OF SOCIETY AND
7 COMPANIONSHIP, LOSS OF CONSORTIUM, INJURY TO REPUTATION, HUMILIATION AND
8 ANY OTHER NON-PECUNIARY DAMAGES, HOWEVER IDENTIFIED.

9 (C) "ACTUAL ECONOMIC DAMAGES" MEANS OBJECTIVELY VERIFIABLE PECUNIARY

10 DAMAGES ARISING FROM LOSS OF EARNINGS AND EARNING CAPACITY, BURIAL
11 COSTS, COST OF OBTAINING CUSTODIAL CARE AND REHABILITATION SERVICES AND
12 ANY OTHER PECUNIARY DAMAGES HOWEVER IDENTIFIED PROVIDED, HOWEVER, THAT
13 SUCH TERM SHALL NOT INCLUDE THE COST OF ANY MEDICAL CARE, TREATMENT OR
14 SERVICES, INCLUDING CUSTODIAL CARE, WHICH MAY BE REQUIRED TO BE PROVIDED
15 IN THE FUTURE TO ANY INJURED PLAINTIFF.

16 S 7581. APPLICABILITY. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO
17 ALL CLAIMS FOR DAMAGES IN A PERSONAL INJURY ACTION AGAINST AN OBSTETRI-
18 CIAN OR GYNECOLOGIST RESULTING FROM THE NEGLIGENCE OR OTHER MISCONDUCT
19 OF AN OBSTETRICIAN OR GYNECOLOGIST ATTENDING AT A BIRTH OF AN INFANT, OR
20 AN OBSTETRICIAN OR GYNECOLOGIST ASSISTING THE ATTENDING PHYSICIAN WHICH
21 NEGLIGENCE OR MISCONDUCT IS ALLEGED TO HAVE CAUSED INJURY TO AN INFANT
22 PRIOR TO, DURING, OR IMMEDIATELY AFTER HIS OR HER BIRTH OR DELIVERY AND
23 ALL OTHER CLAIMS, CROSS-CLAIMS, COUNTER-CLAIMS, AND CLAIMS FOR CONTRIB-
24 UTION AND INDEMNITY ARISING FROM SUCH CLAIM.

25 S 7582. LIMITATION ON LIABILITY. 1. IN ANY PERSONAL INJURY ACTION
26 AGAINST AN OBSTETRICIAN OR GYNECOLOGIST, WHERE THE DETERMINATION AS TO
27 THE AMOUNT OF DAMAGES TO BE AWARDED TO A SUCCESSFUL PLAINTIFF OR PLAIN-
28 TIFFS IS DETERMINED BY A JUDGE OR JURY UPON A VERDICT, THE PERSONAL
29 LIABILITY OF THE OBSTETRICIAN OR GYNECOLOGIST FOR NON-ECONOMIC DAMAGES
30 AND ACTUAL ECONOMIC DAMAGES SUFFERED BY THE INJURED PLAINTIFF OR PLAIN-
31 TIFFS, IN THE AGGREGATE, SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND
32 DOLLARS WHERE THE BOARD OF TRUSTEES OF THE IMPAIRED INFANT COMPENSATION
33 FUND DETERMINES THAT THE AMOUNT IN EXCESS OF SUCH TWO HUNDRED FIFTY
34 THOUSAND DOLLAR LIABILITY SHALL BE PAID PURSUANT TO SECTION
35 EIGHTY-FOUR-B OF THE STATE FINANCE LAW. WHERE THE VERDICT OF THE JUDGE
36 OR JURY AWARDS DAMAGES IN AN AMOUNT WHICH EXCEEDS TWO HUNDRED FIFTY
37 THOUSAND DOLLARS, AND THE BOARD OF TRUSTEES OF SUCH FUND DETERMINES THAT
38 SUCH EXCESS AMOUNT SHALL NOT BE PAYABLE FROM SUCH FUND, SUCH VERDICT AS
39 TO DAMAGES SHALL PROCEED FOR ASSESSMENT AND COLLECTION AS OTHERWISE
40 PROVIDED BY LAW. NO PART OF ANY AWARD WHETHER DEEMED PART OF THE
41 PERSONAL LIABILITY OF THE OBSTETRICIAN OR GYNECOLOGIST OR PAID FROM THE
42 IMPAIRED INFANT COMPENSATION FUND SHALL INCLUDE ANY AMOUNT ATTRIBUTABLE
43 TO MEDICAL CARE, TREATMENT OR SERVICES, INCLUDING CUSTODIAL CARE, WHICH
44 MAY BE REQUIRED TO BE PROVIDED IN THE FUTURE TO ANY INJURED PLAINTIFF.

45 2. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PERSONAL
46 INJURY ACTION AGAINST AN OBSTETRICIAN OR GYNECOLOGIST WHERE THE DETERMI-
47 NATION AS TO THE AMOUNT OF DAMAGES TO BE AWARDED IS MADE BY MUTUAL
48 AGREEMENT OF THE PARTIES OR SETTLEMENT TO THE ACTION AGREED UPON PRIOR
49 TO THE RENDERING OF A VERDICT BY THE JUDGE OR JURY.

50 S 7583. INSTRUCTIONS TO JURY. IN ANY JURY TRIAL, PRIOR TO COMMENCING
51 DELIBERATIONS IN A PERSONAL INJURY ACTION AGAINST AN OBSTETRICIAN OR
52 GYNECOLOGIST WHICH WOULD BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE,
53 THE COURT, UPON THE MOTION OF THE PLAINTIFF'S ATTORNEY OR UPON ITS OWN
54 INITIATIVE, SHALL MAKE A DETERMINATION WHETHER THE PROCEEDING IS IN FACT
55 SUBJECT TO THE PROVISIONS OF THIS ARTICLE. IF SO DETERMINED IN THE
56 AFFIRMATIVE, IT SHALL INSTRUCT THE JURY THAT IN DETERMINING THE AMOUNT

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1 OF THE ACTUAL ECONOMIC DAMAGES TO BE INCLUDED IN SUCH VERDICT, IF ANY,
2 THEY MUST NOT INCLUDE ANY AMOUNT WHICH WOULD BE ATTRIBUTABLE TO MEDICAL
3 CARE, TREATMENT OR SERVICES, INCLUDING CUSTODIAL CARE WHICH MAY BE
4 REQUIRED TO BE PROVIDED IN THE FUTURE TO ANY INJURED PLAINTIFF AND IT
5 SHALL FURTHER INFORM THEM OF THE APPLICATION OF TITLE ELEVEN-E OF ARTI-
6 CLE FIVE OF THE SOCIAL SERVICES LAW.

7 S 2. The state finance law is amended by adding a new section 84-b to
8 read as follows:

9 S 84-B. IMPAIRED INFANT COMPENSATION FUND. 1. THERE IS HEREBY ESTAB-

10 LISHED IN THE CUSTODY OF THE STATE COMPTROLLER A FUND TO BE KNOWN AS THE
11 IMPAIRED INFANT COMPENSATION FUND.

12 2. A BOARD OF TRUSTEES AS HEREIN CONSTITUTED SHALL ADMINISTER SUCH
13 FUND. SUCH BOARD SHALL CONSIST OF NINE MEMBERS APPOINTED BY THE GOVER-
14 NOR, SIX OF WHOM SHALL BE BOARD CERTIFIED OBSTETRICIANS OR GYNECOLOGISTS
15 LICENSED TO PRACTICE SUCH SPECIALTY IN THIS STATE AND CURRENTLY ENGAGED
16 IN ACTIVE PRACTICE IN SUCH SPECIALTY AT THE TIME OF THEIR APPOINTMENT.
17 TWO MEMBERS SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE TEMPORARY
18 PRESIDENT OF THE SENATE, TWO MEMBERS SHALL BE APPOINTED UPON THE RECOM-
19 MENDATION OF THE SPEAKER OF THE ASSEMBLY, ONE MEMBER SHALL BE APPOINTED
20 UPON THE RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE AND ONE
21 MEMBER SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE MINORITY LEADER
22 OF THE ASSEMBLY. TWO OF THE MEMBERS APPOINTED BY THE GOVERNOR (NOT UPON
23 THE RECOMMENDATION OF A LEGISLATIVE LEADER) AND THE MEMBERS APPOINTED
24 UPON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE AND THE
25 SPEAKER OF THE ASSEMBLY RESPECTIVELY, SHALL BE BOARD CERTIFIED, LICENSED
26 AND CURRENTLY ENGAGED AS HEREINABOVE PROVIDED. THE GOVERNOR SHALL DESIG-
27 NATE ONE OF THE MEMBERS OF THE BOARD AS CHAIRMAN. THE TERM OF OFFICE OF
28 MEMBERS SHALL BE THREE YEARS, PROVIDED, HOWEVER, THAT OF THE MEMBERS
29 FIRST APPOINTED, THREE SHALL BE APPOINTED FOR TERMS EXPIRING ON DECEMBER
30 THIRTY-FIRST, TWO THOUSAND FOUR, THREE SHALL BE APPOINTED FOR TERMS
31 EXPIRING ON DECEMBER THIRTY-FIRST, TWO THOUSAND FIVE AND THREE SHALL BE
32 APPOINTED FOR TERMS EXPIRING ON DECEMBER THIRTY-FIRST, TWO THOUSAND SIX.
33 TWO OF THE THREE MEMBERS WHOSE TERMS EXPIRE ON SUCH DECEMBER
34 THIRTY-FIRST IN TWO THOUSAND FOUR, TWO THOUSAND FIVE AND TWO THOUSAND
35 SIX RESPECTIVELY SHALL BE BOARD CERTIFIED OBSTETRICIANS OR GYNECOLOGISTS
36 SO LICENSED AND ENGAGED AS ABOVE REQUIRED. VACANCIES SHALL BE FILLED IN
37 THE MANNER OF ORIGINAL APPOINTMENT FOR THE REMAINDER OF THE TERM. THE
38 MEMBERS SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE
39 ENTITLED TO RECEIVE THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
40 PERFORMANCE OF THEIR DUTIES.

41 3. THE FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED OR TRANSFERRED
42 THERETO BY LAW, ALL MONEYS ASSESSED OR COLLECTED AS PROVIDED BY LAW AND
43 MADE AVAILABLE TO THE FUND AND ANY OTHER MONEYS, GIFTS OR BEQUESTS
44 DEPOSITED INTO THE FUND.

45 4. IN ANY PERSONAL INJURY ACTION AGAINST AN OBSTETRICIAN OR GYNECOLO-
46 GIST SUBJECT TO THE PROVISIONS OF ARTICLE SEVENTY-FIVE-B OF THE CIVIL
47 PRACTICE LAW AND RULES, WHERE THE AMOUNT OF DAMAGES TO BE AWARDED TO THE
48 PLAINTIFF OR PLAINTIFFS IS DETERMINED BY A JUDGE OR JURY TO BE GREATER
49 THAN TWO HUNDRED FIFTY THOUSAND DOLLARS, THE TRIAL COURT JUDGE SHALL
50 NOTIFY THE CHAIRMAN OF THE FUND OF THE AMOUNT OF SUCH VERDICT WITHIN
51 FIVE DAYS AFTER IT IS RENDERED. TOGETHER WITH SUCH NOTIFICATION, THE
52 COURT SHALL PROVIDE THE BOARD WITH A TRANSCRIPT OF THE TRIAL TESTIMONY
53 AND ANY EVIDENCE PRESENTED AT THE TRIAL. WITHIN THIRTY DAYS AFTER SUCH
54 NOTIFICATION, THE BOARD SHALL MAKE A DETERMINATION WHETHER THE AMOUNT OF
55 SUCH VERDICT IN EXCESS OF TWO HUNDRED FIFTY THOUSAND DOLLARS SHALL BE
56 PAID TO THE SUCCESSFUL PLAINTIFF OR PLAINTIFFS FROM THE FUND. SUCH

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1 PAYMENT MUST BE MADE WHERE THERE HAS NEVER BEEN A PREVIOUS PERSONAL
2 INJURY ACTION AGAINST THE OBSTETRICIAN OR GYNECOLOGIST WHICH WAS SUBJECT
3 TO THE PROVISIONS OF SUCH ARTICLE SEVENTY-FIVE-B. PAYMENT IN ANY SUBSE-
4 QUENT PERSONAL INJURY ACTION AGAINST THE SAME OBSTETRICIAN OR GYNECOLO-
5 GIST, WHERE THE CHAIRMAN IS SO NOTIFIED, SHALL BE SIMILARLY PAID UNLESS
6 THE BOARD DETERMINES THAT FROM THE WEIGHT OF THE EVIDENCE PRESENTED AT
7 THE TRIAL THAT THE NEGLIGENCE OR MISCONDUCT OF THE OBSTETRICIAN OR GYNE-
8 COLOGIST WAS SO EGREGIOUS, OR SO CONTRARY TO GENERALLY ACCEPTABLE
9 MEDICAL STANDARDS THAT THE BOARD DETERMINES PAYMENT FROM SUCH FUND IS

10 NOT WARRANTED. ONCE PAYMENT FROM THE FUND IS DENIED FOR SUCH REASONS, NO
11 FURTHER PAYMENTS FROM THE FUND SHALL THEREAFTER BE PAID IN ANY PERSONAL
12 INJURY ACTION BROUGHT AGAINST THAT OBSTETRICIAN OR GYNECOLOGIST. WHERE
13 PAYMENT FROM THE FUND IS DENIED, THE PLAINTIFF OR PLAINTIFF'S VERDICT AS
14 RENDERED BY THE JURY SHALL STAND, AND SHALL BE SUBJECT TO ASSESSMENT AND
15 COLLECTION PROCEDURES AS OTHERWISE APPLICABLE TO JUDGMENTS RENDERED IN
16 ACCORDANCE WITH ALL OTHER APPROPRIATE PROVISIONS OF LAW.

17 5. ALL PAYMENTS FROM THE FUND SHALL BE MADE ON THE AUDIT AND WARRANT
18 OF THE STATE COMPTROLLER, ON VOUCHERS CERTIFIED OR APPROVED IN THE
19 MANNER PROVIDED BY LAW WITHIN THIRTY DAYS OF THE DETERMINATION OF THE
20 BOARD, A COPY OF WHICH DETERMINATION SHALL BE TRANSMITTED TO THE COURT
21 OF RECORD, ALL OF THE PARTIES TO THE ACTION, AND THEIR ATTORNEYS.

22 6. THE DECISION OF THE BOARD SHALL BE FINAL AND SHALL NOT BE SUBJECT
23 TO FURTHER ADMINISTRATIVE REVIEW OR APPEAL. PAYMENT OF THE INITIAL TWO
24 HUNDRED FIFTY THOUSAND DOLLARS BY, OR ON BEHALF OF, THE DEFENDANT
25 OBSTETRICIAN OR GYNECOLOGIST AND SUCH EXCESS AMOUNT FROM SUCH FUND SHALL
26 CONSTITUTE A FULL SATISFACTION OF SUCH JURY'S VERDICT AND SHALL
27 DISCHARGE THE DEFENDANT FROM ANY FURTHER CLAIM FOR DAMAGES IN SUCH
28 ACTION.

29 S 3. Article 5 of the social services law is amended by adding a new
30 title 11-E to read as follows:

31 TITLE 11-E
32 MEDICAL EXPENSES OF CERTAIN INFANTS

33 SECTION 369-FF. DEFINITIONS.

34 369-GG. ESTABLISHMENT OF PROGRAM.

35 369-HH. PROGRAM ELIGIBILITY AND OPERATIONS.

36 369-II. RELATIONSHIP OF PROGRAM TO MEDICAL ASSISTANCE PROGRAM.

37 S 369-FF. DEFINITIONS. AS USED IN THIS SECTION:

38 1. "IMPAIRED INFANT" SHALL MEAN A PERSON WHO IS INJURED AS A RESULT OF
39 THE NEGLIGENCE OR OTHER MISCONDUCT OF AN OBSTETRICIAN OR GYNECOLOGIST
40 AND WHO HAS BEEN AWARDED DAMAGES IN AN ACTION WHICH WAS DETERMINED TO BE
41 SUBJECT TO THE PROVISIONS OF ARTICLE SEVENTY-FIVE-B OF THE CIVIL PRAC-
42 TICE LAW AND RULES.

43 2. "MEDICAL AND OTHER RELATED COSTS" MEANS ANY COSTS INCURRED IN
44 PROVIDING MEDICAL SERVICES AND ANY APPROPRIATE CUSTODIAL CARE TO AN
45 IMPAIRED INFANT DURING HIS OR HER LIFETIME.

46 3. "PROGRAM" MEANS THE MEDICAL CARE AND ASSISTANCE PROGRAM FOR
47 IMPAIRED INFANTS AS ESTABLISHED IN SECTION THREE HUNDRED SIXTY-NINE-GG
48 OF THIS TITLE.

49 S 369-GG. ESTABLISHMENT OF PROGRAM. 1. THERE IS HEREBY ESTABLISHED
50 WITHIN THE OFFICE OF CHILDREN AND FAMILY SERVICES THE MEDICAL CARE AND
51 ASSISTANCE PROGRAM FOR IMPAIRED INFANTS.

52 2. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE COMMISSION-
53 ER, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, MAY APPLY FOR
54 APPROPRIATE WAIVERS UNDER FEDERAL LAW AND REGULATION IF NECESSARY OR
55 TAKE OTHER ACTIONS AS MAY BE REQUIRED TO SECURE FEDERAL FINANCIAL

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1 PARTICIPATION IN THE COSTS OF THE PROGRAM; MAY WAIVE OR MODIFY ANY
2 PROVISIONS OF THIS CHAPTER OR REGULATION OF THE DEPARTMENT TO IMPLEMENT
3 THIS TITLE; OR MAY PROMULGATE SUCH REGULATIONS AS NECESSARY TO IMPLEMENT
4 THIS TITLE.

5 S 369-HH. PROGRAM ELIGIBILITY AND OPERATIONS. 1. IN ACCORDANCE WITH
6 REGULATIONS OF THE COMMISSIONER, A SOCIAL SERVICES DISTRICT SHALL PAY
7 ALL OF THE MEDICAL AND OTHER RELATED COSTS, INCURRED ON BEHALF OF OR IN
8 CONNECTION WITH THE SUPPORT OF, AN IMPAIRED INFANT DURING THE ENTIRETY
9 OF SUCH INFANT'S LIFETIME.

10 2. FOR PURPOSES OF DETERMINING ELIGIBILITY UNDER THIS TITLE, ANY
11 RESOURCES AVAILABLE TO SUCH INFANT, OR SUCH INFANT'S HOUSEHOLD SHALL NOT
12 BE CONSIDERED NOR REQUIRED TO BE APPLIED TO THE PAYMENT OF SUCH MEDICAL
13 AND OTHER RELATED COSTS.

14 S 369-II. RELATIONSHIP OF PROGRAM TO MEDICAL ASSISTANCE PROGRAM.
15 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, EXPENDITURES INCURRED
16 BY SOCIAL SERVICES DISTRICTS UNDER THIS TITLE RELATED TO PROGRAM
17 EXPENSES SHALL BE CONSIDERED EXPENDITURES UNDER THE PROGRAM OF MEDICAL
18 ASSISTANCE FOR NEEDY PERSONS UNDER TITLE ELEVEN OF THIS ARTICLE AND
19 THERE SHALL BE PAID TO EACH SUCH DISTRICT FIFTY PERCENT OF THE AMOUNT
20 EXPENDED BY SUCH DISTRICT UNDER THIS TITLE, AND FOR THE ADMINISTRATION
21 THEREOF, AFTER FIRST DEDUCTING THEREFROM ANY FEDERAL FUNDS PROPERLY
22 RECEIVED OR TO BE RECEIVED ON ACCOUNT THEREOF.

23 S 4. The civil practice law and rules is amended by adding a new
24 section 4515-a to read as follows:

25 S 4515-A. EXPERT WITNESSES IN PERSONAL INJURY ACTION AGAINST AN
26 OBSTETRICIAN OR GYNECOLOGIST. ANY PERSON CALLED TO TESTIFY OR GIVE HIS
27 OR HER OPINION AS AN EXPERT WITNESS IN A PERSONAL INJURY ACTION AGAINST
28 AN OBSTETRICIAN OR GYNECOLOGIST AS SUCH TERM IS DEFINED IN SECTION SEVEN
29 THOUSAND FIVE HUNDRED EIGHTY OF THIS CHAPTER, MUST FIRST PROVIDE PROOF
30 ACCEPTABLE TO THE COURT, THAT HE OR SHE (A) IS LICENSED TO PRACTICE
31 MEDICINE IN THIS STATE, (B) IS BOARD CERTIFIED IN THE SPECIALTY OF
32 OBSTETRICS AND/OR GYNECOLOGY, AND (C) WAS ACTIVELY ENGAGED IN THE PRAC-
33 TICE OF SUCH MEDICAL SPECIALTY ON THE DATE THE ALLEGED NEGLIGENCE OR
34 MISCONDUCT OCCURRED, AND IS SO ACTIVELY ENGAGED ON THE DATE UPON WHICH
35 HE OR SHE IS GIVING HIS OR HER EXPERT OPINION.

36 S 5. Severability. If any clause, sentence, paragraph, subdivision or
37 part of this act, or the application thereof to any person or circum-
38 stance, shall be adjudged by any court of competent jurisdiction to be
39 invalid or unconstitutional, such judgment shall not affect, impair or
40 invalidate the remainder thereof, but shall be confined in its operation
41 to the clause, sentence, paragraph, subdivision or part of this act, or
42 in its application to the person or circumstance, directly involved in
43 the controversy in which such judgment shall have been rendered.

44 S 6. This act shall take effect on the first day of the first month
45 which day occurs not later than 30 days after the date upon which this
46 act shall have become a law and shall apply to any cause of action which
47 has accrued prior to, and is pending on such date, or which accrues
48 after such date.

POLICY CHANGE CATEGORY

POLICE DEPARTMENT

Mandatory Arbitration

PROPOSAL

The Suffolk Legislature passed a bill on October 3, 2000 which requests that the NYS Legislature allow the mandatory arbitration provision contained in Section 209(4)(c) and (d) of the New York Civil Service Law ("Taylor Law") to expire. It further requests that the New York State Legislature consider the ability-to-pay criteria of a locality with any future provisions.

JUSTIFICATION

The sunset of the mandatory arbitration provision in connection with County collective bargaining is critical in order to address the rigid unwillingness on the part of the public arbitrator to realistically consider the "ability-to-pay" criteria of a locality as something more limited than the countless authority to raise real property taxes or increase sales taxes. Millions of additional dollars are at risk if binding arbitration is applied to the collective bargaining process for other police unions.

FISCAL IMPACT

If the Taylor Law does expire it will save the County a lot of money.

BACKGROUND & STATISTICS

The mandatory arbitration provision, in effect since 1977, has impeded the bargaining position of the County of Suffolk in certain collective bargaining negotiations by discouraging serious negotiations in some circumstances and by imposing an unfair burden and restraint upon the County in such negotiations. Mandatory arbitration too often hinders the effectiveness of serious collective bargaining negotiations, thereby imposing unnecessary delays and costs upon the County. Such provisions have become counterproductive and result in an unnecessary and unacceptable increase in the real property and sales tax burden of taxpayers located within Suffolk County.

LEGISLATIVE HISTORY

The Suffolk County Legislature passed this resolution with a vote of 15-3 in October 2000.

POLICY CHANGE CATEGORY

DEPARTMENT OF SOCIAL SERVICES

State Central Registry

PROPOSAL

Amend section 424-a of the Social Services Law to include schoolteachers and bus drivers in the requirements to undergo clearance, along with daycare workers, school age childcare workers, foster parents and family daycare workers at the State Central Registry when they begin employment.

JUSTIFICATION

SCR clearances at the time both professions commence their employment and periodic clearances will better protect children. If Child Protective Services conducts an investigation concerning either a schoolteacher or school bus driver and determines the individual sexually abused a child, there is currently no requirement that the appropriate school district be notified. In addition, there is currently no requirement that the appropriate school district be notified. In addition, CPS is not permitted to disclose information concerning the investigation to the school district.

FISCAL IMPACT

No Fiscal Impact to Suffolk County.

BACKGROUND & STATISTICS

Pursuant to Social Services Law, Section 424-a, individuals who are employed by or have applied for a license or certificate to operate child day care, school age childcare, family day care, are required to undergo clearance by the State Central Register of Child Abuse and Maltreatment (SCR). Individuals seeking to become foster or adoptive parents must also receive a clearance from the SCR. Unfortunately, there are no such requirements for schoolteachers and school bus drivers.

LEGISLATIVE HISTORY

Although this proposal was submitted as part of the 2003 State Legislative Agenda, no legislative action has been taken to date.

POLICY CHANGE CATEGORY

OFFICE FOR THE AGING

Abuse Registry

PROPOSAL

Institute a mandatory reporting law for the physical abuse, sexual abuse, psychological and emotional abuse, neglect and financial exploitation of mentally and physically incapacitated adults. Allow for the creation of a Central Abuse registry with toll-free number at State level and immunity for “good faith” reporting.

JUSTIFICATION

New York is one of just a few states which do not have mandatory reporting of adult abuse. At the present time there is no data collection method to determine the extent of the problem of adult abuse.

A mandatory reporting law for adult abuse would give the problem parity with child abuse statutes. The law would also greatly increase public awareness and crucial county intervention.

FISCAL IMPACT

A mandatory reporting law for adult abuse with a hotline at the State level staffed with counselors trained to screen calls could save the County money currently spent on screening reports at the local level.

BACKGROUND & STATISTICS

Mandatory reporting of abuse of mentally and physically incapacitated adults (18 years of age and older) is needed in New York State. Every year an estimated 1 to 2 million Americans are victims of elder abuse or neglect in domestic settings.

LEGISLATIVE HISTORY

To date, no legislative action has been taken on this issue.

POLICY CHANGE CATEGORY

OFFICE FOR THE AGING

Assisted Living Facilities

PROPOSAL

Amend New York State Public Health Law and provide for the regulation and licensing of all Assisted Living facilities by the New York State Department of Health with appropriate health and safety standards included for all Assisted Living residents. It should be noted that Suffolk County supports A421-a-2003.

JUSTIFICATION

Although NYS does license and oversee adult homes and nursing homes, there is no oversight of assisted living facilities-- the fastest growing type of senior housing in the County according to the American Health Care Association.

FISCAL IMPACT

This bill would not have a cost for County government for state licensing, but there would be cost to local Departments of Health for monitoring facilities.

BACKGROUND & STATISTICS

According to the American Health Care Association, Assisted Living is the fastest growing type of senior housing in the county. In New York, Assisted Living costs \$1,500 - \$6,000 a month. More than half the states have enacted legislation establishing regulations for Assisted Living Facilities.

There are different types of assisted living facilities. Some are New York State licensed adult homes. However, others are not licensed by any state agency.

LEGISLATIVE HISTORY

In January of 2001, this legislation was introduced by New York State Senator Maziarz and Assemblyman Englebright. The legislation passed through both bodies only and died at the end of the 2001 session. The Senate and Assembly have a philosophical difference on the extent to which Assisted Living Residences should be regulated.

In 2003, Senator Maziarz, Assemblyman Englebright and the Governor re-introduced legislation-S511(5382), A421-A, and S5437. The main difference between the three bills concerns licensing and inspections. The Assembly would like licensing and 6-month inspections, the Senate bill requests registration but little to no inspection and the Governor's bill is a combination of the two. A compromise was attempted to reconcile the Assembly Bill, the Senate Bill and the Governor's version of the bill, but to no avail. The senate bills were sent to the Health Committee and the Assembly bill was sent back to the Aging Committee where it awaits new negotiations.

2003-2004 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 8, 2003

Introduced by M. of A. ENGLEBRIGHT, GOTTFRIED -- Multi-Sponsored by --
 M. of A. AUBRY, BRENNAN, CAHILL, CANESTRARI, CARROZZA, CHRISTENSEN,
 CLARK, A. COHEN, COLTON, COOK, CYMBROWITZ, DESTITO, EDDINGTON, GLICK,
 GORDON, GRANNIS, GREEN, GREENE, GROMACK, HEASTIE, JOHN, KAUFMAN, KOON,
 LAFAYETTE, LAVELLE, LEVY, LOPEZ, McENENY, McLAUGHLIN, MILLMAN, PHEF-
 FER, J. RIVERA, P. RIVERA, ROBINSON, SEDDIO, SIDIKMAN, SWEENEY, TONKO,
 TOWNS, WEINSTEIN -- read once and referred to the Committee on Aging
 -- committee discharged, bill amended, ordered reprinted as amended
 and recommitted to said committee

AN ACT to amend the public health law and the executive law, in relation
 to assisted living residences; and to amend the state finance law, in
 relation to creating an assisted living residence quality oversight
 fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
 BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The public health law is amended by adding a new article
- 2 46-A to read as follows:
- 3 ARTICLE 46-A
- 4 ASSISTED LIVING RESIDENCES
- 5 SECTION 4650. LEGISLATIVE PURPOSE AND FINDINGS.
- 6 4651. DEFINITIONS.
- 7 4652. RESIDENCES REQUIRED TO BE LICENSED; LICENSURE FEES.
- 8 4653. REQUIREMENTS FOR LICENSURE.
- 9 4654. RESIDENCY ADMISSION.
- 10 4655. RESIDENCY AGREEMENT AND DISCLOSURES.
- 11 4656. RIGHTS OF RESIDENTS IN ASSISTED LIVING RESIDENCES.
- 12 4657. RESIDENT FUNDS AND PROPERTY.
- 13 4658. RESIDENT ORGANIZATIONS.
- 14 4659. DISCHARGE AND TRANSFER.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
 { } is old law to be omitted.

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- 1 4660. SPECIAL PROCEEDING FOR TERMINATION OF ASSISTED LIVING
- 2 RESIDENCE RESIDENCY AGREEMENTS.
- 3 4661. ADDITIONAL REQUIREMENTS.
- 4 4662. POWERS AND DUTIES OF THE COMMISSIONER.
- 5 4663. PENALTIES AND ENFORCEMENT.
- 6 S 4650. LEGISLATIVE PURPOSE AND FINDINGS. THE LEGISLATURE HEREBY
- 7 FINDS AND DECLARES THAT THERE IS A GROWING DEMAND FOR THE AVAILABILITY
- 8 OF AN ASSISTED LIVING MODEL OF LONG TERM CARE WHICH ALLOWS INDIVIDUALS
- 9 TO REMAIN IN A RESIDENTIAL, HOME-LIKE SETTING TO RECEIVE BOTH HOUSING

10 AND SUPPORTIVE SERVICES AS THEY AGE. CURRENTLY, THE ABSENCE OF A CLEAR
11 DEFINITION OF ASSISTED LIVING IN THE STATE OF NEW YORK AND THE LACK OF
12 STATE OVERSIGHT OVER FACILITIES THAT HOLD THEMSELVES OUT AS OFFERING
13 ASSISTED LIVING SERVICES, RAISES CONCERNS REGARDING THE HEALTH, SOCIAL
14 AND ECONOMIC WELL-BEING OF INDIVIDUALS BEING SERVED IN THESE SETTINGS.
15 THE LEGISLATURE ALSO FINDS THAT INDIVIDUALS LIVING IN AN ASSISTED LIVING
16 RESIDENCE MUST BE PROVIDED WITH CERTAIN PROTECTIONS, INCLUDING FULL
17 DISCLOSURE OF THE SERVICES TO BE PROVIDED AND AT WHAT PRICE, A BINDING
18 WRITTEN RESIDENCY AGREEMENT, PROCEDURES FOR TERMINATION OF SUCH RESIDEN-
19 CY AGREEMENT, NOTIFICATION OF RESIDENT RIGHTS, AND THE APPEALS PROCESS
20 FOR ANY DECISIONS MADE BY THE RESIDENCE THAT IS ADVERSE TO THE RESIDENT.
21 THE STATE MUST THEREFORE PROVIDE OVERSIGHT OF ASSISTED LIVING RESIDENCES
22 TO ENSURE THAT THESE PROTECTIONS ARE IN PLACE AND TO MONITOR THE
23 PROVISION OR COORDINATION OF HEALTH AND WELL-BEING RELATED SERVICES BY
24 ASSISTED LIVING RESIDENCES. TO FURTHER THIS GOAL, THIS ARTICLE ESTAB-
25 LISHES A UNIFORM DEFINITION OF AN ASSISTED LIVING RESIDENCE; MANDATES
26 STATE OVERSIGHT; AND REQUIRES A WRITTEN RESIDENCY AGREEMENT AND FULL
27 DISCLOSURE OF SERVICES PROVIDED, FEES, ADMISSION CRITERIA, TERMINATION
28 AND DISCHARGE PROCEDURES, AND RIGHTS OF RESIDENTS.

29 S 4651. DEFINITIONS. AS USED IN THIS ARTICLE:

30 1. "ASSISTED LIVING RESIDENCE" OR "RESIDENCE" MEANS ANY ENTITY, OPER-
31 ATED FOR PROFIT OR NOT-FOR-PROFIT, THAT PROVIDES OR ARRANGES FOR ROOM,
32 BOARD AND EITHER PERSONAL CARE SERVICES OR HOME CARE SERVICES OR BOTH IN
33 A HOME-LIKE SETTING TO FIVE OR MORE ADULT RESIDENTS NOT RELATED TO THE
34 OPERATOR, EIGHTY PERCENT OF WHOM ARE FIFTY-FIVE YEARS OF AGE OR OLDER,
35 UNLESS THE COMMISSIONER PERMITS A RESIDENCE TO CHANGE THIS PERCENTAGE
36 BASED ON A SHOWING OF EXTENUATING CIRCUMSTANCES. FACILITIES LICENSED
37 PURSUANT TO ARTICLE TWENTY-EIGHT OF THIS CHAPTER AND ARTICLES NINETEEN,
38 TWENTY-NINE AND THIRTY-TWO OF THE MENTAL HYGIENE LAW, FACILITIES FUNDED
39 PURSUANT TO SECTION FIVE HUNDRED THIRTY-SIX-G OF THE EXECUTIVE LAW,
40 RESIDENCES FOR ADULTS, SHELTERS FOR ADULTS, AND FAMILY TYPE HOMES SHALL
41 NOT BE CONSIDERED ASSISTED LIVING RESIDENCES.

42 2. "CASE MANAGEMENT" INCLUDES ANY OF THE FOLLOWING: THE EVALUATION OF
43 RESIDENT NEEDS BY RESIDENCE EMPLOYEES, THE ONGOING MONITORING OF RESI-
44 DENT WELL-BEING, THE ARRANGEMENT OF SERVICES FOR RESIDENTS, AND THE
45 COORDINATION OF SERVICES UTILIZED TO MEET EACH RESIDENT'S NEEDS.

46 3. "TWENTY-FOUR HOUR SUPERVISION" MEANS TWENTY-FOUR HOUR, SEVEN DAYS
47 PER WEEK, MONITORING OF THE SAFETY AND SECURITY OF THE RESIDENCE AND ITS
48 RESIDENTS, AND THE TWENTY-FOUR HOUR, SEVEN DAYS PER WEEK, MONITORING OF
49 THE PHYSICAL WELL-BEING OF ITS RESIDENTS THROUGH A TWENTY-FOUR HOUR,
50 SEVEN DAYS PER WEEK, ON-SITE STAFF PRESENCE AND ANY OTHER MECHANISMS
51 INTENDED TO ENSURE THE RESIDENTS THAT THE RESIDENCE IS MONITORING THEIR
52 SAFETY, SECURITY AND PHYSICAL WELL-BEING.

53 4. "HOME CARE SERVICES" MEANS ONE OR MORE OF THE FOLLOWING SERVICES,
54 AS DEFINED BY ARTICLE THIRTY-SIX OF THIS CHAPTER, PROVIDED TO PERSONS IN
55 AN ASSISTED LIVING RESIDENCE:

56 (A) THOSE SERVICES PROVIDED BY A HOME CARE SERVICES AGENCY;

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1 (B) HOME HEALTH AIDE SERVICES;

2 (C) PERSONAL CARE SERVICES;

3 (D) HOMEMAKER SERVICES; AND

4 (E) HOUSEKEEPER OR CHORE SERVICES.

5 5. "PERSONAL CARE SERVICES" MEANS SERVICES TO ASSIST WITH PERSONAL
6 HYGIENE, DRESSING, FEEDING AND HOUSEHOLD TASKS ESSENTIAL TO THE
7 PATIENT'S HEALTH.

8 6. "ASSISTED LIVING OPERATOR" OR "OPERATOR" MEANS AN ENTITY OR PERSON
9 LICENSED BY THE DEPARTMENT UNDER THIS ARTICLE TO OPERATE AN ASSISTED

10 LIVING RESIDENCE.

11 7. "RESIDENT" MEANS AN ADULT NOT RELATED TO THE OPERATOR WHO, PURSUANT
12 TO AN AGREEMENT WITH THE OPERATOR, RECEIVES ASSISTED LIVING SERVICES.

13 8. "RESIDENT REPRESENTATIVE" MEANS AN INDIVIDUAL AUTHORIZED, IN WRIT-
14 ING, BY A RESIDENT TO COMMUNICATE WITH RESIDENCE EMPLOYEES REGARDING THE
15 HEALTH, WELL-BEING, NEEDS OF AND SERVICES PROVIDED TO SUCH RESIDENT AND
16 TO ASSIST THE RESIDENT IN OBTAINING NEEDED SERVICES.

17 9. "LEGAL REPRESENTATIVE" MEANS A PERSON AUTHORIZED UNDER APPLICABLE
18 STATE LAW TO ACT ON BEHALF OF A RESIDENT. A LEGAL REPRESENTATIVE COULD
19 INCLUDE, BUT IS NOT NECESSARILY LIMITED TO, A COURT-APPOINTED GUARDIAN,
20 AN ATTORNEY IN-FACT UNDER A DURABLE POWER OF ATTORNEY, AN AGENT UNDER A
21 HEALTH CARE PROXY, OR A REPRESENTATIVE PAYEE.

22 10. "ACTIVITIES" MEANS AN ORGANIZED AND DIVERSIFIED PROGRAM OF INDIV-
23 IDUAL AND GROUP PURSUITS DESIGNED TO ENABLE EACH RESIDENT TO ENGAGE IN
24 CULTURAL, SPIRITUAL, PHYSICAL, SOCIAL AND INTELLECTUAL ACTIVITIES WITHIN
25 THE RESIDENCE AND THE COMMUNITY, IN ORDER TO SUSTAIN AND PROMOTE AN
26 INDIVIDUAL'S POTENTIAL AND A SENSE OF USEFULNESS TO SELF AND OTHERS.

27 11. "CONTROLLING PERSON" MEANS ANY PERSON WHO BY REASON OF A DIRECT OR
28 INDIRECT OWNERSHIP INTEREST, WHETHER OF RECORD OR BENEFICIAL, HAS THE
29 ABILITY, ACTING EITHER ALONE OR IN CONCERT WITH OTHERS WITH OWNERSHIP
30 INTERESTS, TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT OR POLI-
31 CIES OF SAID CORPORATION, PARTNERSHIP OR OTHER ENTITY.

32 S 4652. RESIDENCES REQUIRED TO BE LICENSED; LICENSURE FEES. 1. NO
33 ENTITY SHALL ESTABLISH, OPERATE OR CONDUCT ITSELF AS AN ASSISTED LIVING
34 RESIDENCE IN THIS STATE, OR HOLD ITSELF OUT AS AN ENTITY WHICH OTHERWISE
35 MEETS THE DEFINITION OF AN ASSISTED LIVING RESIDENCE OR ADVERTISES
36 ITSELF AS AN ASSISTED LIVING RESIDENCE OR SIMILAR TERM, WITHOUT FIRST
37 OBTAINING A LICENSE FROM THE DEPARTMENT AS REQUIRED IN THIS ARTICLE AND
38 OTHERWISE ACTING IN ACCORDANCE WITH THIS ARTICLE. THIS SUBDIVISION
39 SHALL NOT APPLY TO ASSISTED LIVING PROGRAMS APPROVED BY THE DEPARTMENT
40 PURSUANT TO SECTION FOUR HUNDRED SIXTY-ONE-L OF THE SOCIAL SERVICES LAW.

41 2. ADULT HOMES AND ENRICHED HOUSING PROGRAMS IN POSSESSION OF AN OPER-
42 ATING CERTIFICATE PURSUANT TO SECTION FOUR HUNDRED SIXTY-B OF THE SOCIAL
43 SERVICES LAW SHALL BE AUTHORIZED TO OPERATE AS AN ASSISTED LIVING RESI-
44 DENCE PROVIDED THAT SUCH RESIDENCE IS LICENSED AS AN ASSISTED LIVING
45 RESIDENCE. AN ADULT HOME OR AN ENRICHED HOUSING PROGRAM THAT OBTAINS A
46 LICENSE AS AN ASSISTED LIVING RESIDENCE UNDER THIS ARTICLE SHALL BE
47 SUBJECT TO THE RESIDENT AGE REQUIREMENTS, ADMISSION AND RETENTION STAND-
48 ARDS, RIGHTS OF RESIDENTS, DISCLOSURES, AND OPERATION OF RESIDENT COUN-
49 SELS UNDER THIS ARTICLE. IN ALL OTHER MATTERS, ANY LAW, RULE OR REGU-
50 LATION RELATING TO ADULT HOMES AND ENRICHED HOUSING PROGRAMS SHALL
51 CONTINUE TO APPLY.

52 3. EVERY ASSISTED LIVING RESIDENCE THAT IS REQUIRED TO POSSESS AN
53 ASSISTED LIVING RESIDENCE LICENSE SHALL BE LICENSED ON A BIENNIAL BASIS
54 AND SHALL PAY A BIENNIAL LICENSURE FEE. SUCH FEE SHALL BE FIVE HUNDRED
55 DOLLARS PER LICENSE, WITH AN ADDITIONAL FEE OF FIFTY DOLLARS PER RESI-
56 DENT WHOSE ANNUAL INCOME IS ABOVE THREE HUNDRED PERCENT OF THE FEDERAL

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1 POVERTY LEVEL. SUCH ADDITIONAL FEE SHALL BE BASED ON TOTAL LICENSED
2 RESIDENCE CAPACITY, UP TO A MAXIMUM LICENSURE FEE OF TEN THOUSAND
3 DOLLARS.

4 4. THE OPERATION OF AN ASSISTED LIVING RESIDENCE REQUIRED TO BE
5 LICENSED PURSUANT TO THIS SECTION WITHOUT SUCH A LICENSE SHALL BE A
6 CLASS A MISDEMEANOR.

7 S 4653. REQUIREMENTS FOR LICENSURE. 1. NO ASSISTED LIVING RESIDENCE
8 SHALL BE LICENSED AND OPERATED UNLESS AND UNTIL THE OPERATOR OF SUCH
9 RESIDENCE OBTAINS THE WRITTEN APPROVAL OF THE DEPARTMENT. SUCH APPROVAL

10 MAY BE GRANTED ONLY TO AN OPERATOR WHO SATISFACTORILY DEMONSTRATES THAT
11 THE OPERATOR: IS OF GOOD MORAL CHARACTER; IS COMPETENT TO OPERATE AN
12 ASSISTED LIVING RESIDENCE; HAS ADEQUATE FINANCIAL RESOURCES TO PROVIDE
13 SUCH ASSISTED LIVING AS PROPOSED; THAT THE BUILDING, EQUIPMENT, STAFF,
14 STANDARDS OF CARE AND RECORDS TO BE EMPLOYED IN THE OPERATION COMPLY
15 WITH APPLICABLE STATUTES AND REGULATIONS OF THE DEPARTMENT AND ANY
16 APPLICABLE LOCAL LAWS; AND THAT ANY LICENSE OR PERMIT REQUIRED BY LAW
17 FOR THE OPERATION OF SUCH RESIDENCE HAS BEEN ISSUED TO SUCH OPERATOR.

18 2. THE OPERATOR SHALL PROVIDE THE FOLLOWING INFORMATION TO THE DEPART-
19 MENT IN ORDER TO BE LICENSED:

20 (A) BUSINESS NAME, STREET ADDRESS AND MAILING ADDRESS OF THE RESIDENCE
21 AND OF THE OWNERS OF THE RESIDENCE AND, IF THE OWNER IS NOT A NATURAL
22 PERSON, IDENTIFICATION OF THE TYPE OF BUSINESS ENTITY OF THE OWNER, AND
23 THE NAMES AND ADDRESSES OF THE OFFICERS AND MEMBERS OR THE GOVERNING
24 BODY, OR COMPARABLE PERSONS FOR PARTNERSHIPS, LIMITED LIABILITY COMPA-
25 NIES OR OTHER TYPES OF BUSINESS ORGANIZATIONS OF THE OWNERS;

26 (B) NAME AND MAILING ADDRESS OF THE OPERATOR OF THE RESIDENCE AND, IF
27 THE OPERATOR IS NOT A NATURAL PERSON, IDENTIFICATION OF THE TYPE OF
28 BUSINESS ENTITY OF THE OPERATOR, AND THE NAMES AND ADDRESSES OF THE
29 OFFICERS AND MEMBERS OF THE GOVERNING BODY, OR COMPARABLE PERSONS FOR
30 PARTNERSHIPS, LIMITED LIABILITY COMPANIES OR OTHER TYPES OF BUSINESS
31 ORGANIZATIONS OF THE OPERATOR;

32 (C) NAME AND MAILING ADDRESS OF THE ON-SITE MANAGER OR ADMINISTRATOR;

33 (D) NAME AND ADDRESS OF AT LEAST ONE NATURAL PERSON WHO SHALL BE
34 RESPONSIBLE FOR DEALING WITH THE DEPARTMENT ON ALL MATTERS PROVIDED FOR
35 IN THIS ARTICLE;

36 (E) SIGNATURE OF THE AUTHORIZED REPRESENTATIVE OF THE OPERATOR OR, IF
37 THE OPERATOR IS NOT A NATURAL PERSON, A SIGNATURE OF AT LEAST TWO
38 AUTHORIZED REPRESENTATIVES OF THE OPERATOR, ONE OF WHICH SHALL BE AN
39 OFFICER OF THE OPERATOR;

40 (F) WHETHER SUCH OPERATOR HAS BEEN PREVIOUSLY FOUND IN VIOLATION OF
41 ANY STATE LAWS, RULES OR REGULATIONS RELATING TO THE OPERATION OF AN
42 ASSISTED LIVING RESIDENCE, ADULT CARE FACILITY, ANY OTHER FACILITY
43 LICENSED OR REGULATED UNDER THIS CHAPTER OR THE SOCIAL SERVICES LAW OR A
44 SIMILAR RESIDENTIAL OR HEALTH CARE FACILITY IN ANY OTHER STATE;

45 (G) A REPORT ACCOUNTING FOR ALL FUNDS, PROPERTY AND THINGS OF VALUE
46 HELD BY THE ASSISTED LIVING RESIDENCE FOR ITS RESIDENTS. SUCH REPORT
47 SHALL INCLUDE A DESCRIPTION OF HOW THE MONEY AND PROPERTY ARE BEING HELD
48 AND HOW SUCH MONEY AND PROPERTY ARE BEING MANAGED;

49 (H) IF THE OPERATOR WILL SERVE INDIVIDUALS WITH SPECIAL NEEDS, INCLUD-
50 ING BUT NOT LIMITED TO, INDIVIDUALS WITH DEMENTIA, COGNITIVE IMPAIRMENTS
51 OR MENTAL ILLNESS, DOCUMENTATION SATISFACTORY TO THE DEPARTMENT THAT THE
52 NEEDS OF SUCH INDIVIDUALS CAN BE APPROPRIATELY AND SAFELY PROVIDED FOR.
53 SUCH DOCUMENTATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, A WRITTEN
54 DESCRIPTION OF SPECIALIZED SERVICES, STAFF EDUCATION AND TRAINING, WORK
55 EXPERIENCE, PROFESSIONAL AFFILIATIONS OR SPECIAL CHARACTERISTICS RELE-
56 VANT TO SERVING PERSONS WITH SUCH SPECIAL NEEDS, AND OF ANY ENVIRON-

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1 MENTAL MODIFICATIONS THAT HAVE BEEN MADE OR WILL BE MADE TO PROTECT THE
2 HEALTH, SAFETY AND WELFARE OF SUCH PERSONS IN THE RESIDENCE;

3 (I) THE WRITTEN EMERGENCY PLAN REQUIRED BY THIS ARTICLE; AND

4 (J) ANY OTHER INFORMATION THAT MAY BE REQUESTED BY THE DEPARTMENT.

5 3. AN ASSISTED LIVING RESIDENCE MUST AT A MINIMUM OFFER TO PROVIDE OR
6 ARRANGE FOR THE PROVISION OF: HOME CARE SERVICES; PERSONAL CARE
7 SERVICES; TWENTY-FOUR HOUR SUPERVISION; CASE MANAGEMENT; ADMINISTRATION
8 OF MEDICATION; COMMON DINING AND LEISURE SPACE; HOUSEKEEPING; LAUNDRY;
9 LINEN; ACTIVITIES; THE PREPARATION AND PERIODIC REVIEW OF A SERVICE

10 PLAN; AND SUCH OTHER SERVICES REQUIRED PURSUANT TO REGULATIONS PROMUL-
11 GATED BY THE COMMISSIONER.

12 4. THE OPERATOR SHALL MAINTAIN A WRITTEN EMERGENCY PLAN WHICH DETAILS
13 THE PROCEDURES TO BE FOLLOWED FOR THE PROPER PROTECTION OF RESIDENTS AND
14 STAFF IN THE EVENT OF AN ACTUAL OR THREATENED EMERGENCY OR DISASTER.
15 SUCH PLAN SHALL BE PROVIDED TO THE DEPARTMENT PRIOR TO OBTAINING A
16 LICENSE AND WHEN AMENDED.

17 5. NO ASSISTED LIVING RESIDENCE OR OTHER ENTITY SHALL PROVIDE HOME
18 CARE SERVICES OR PERSONAL CARE SERVICES AS DEFINED BY SECTION THIRTY-SIX
19 HUNDRED TWO OF THIS CHAPTER UNLESS IT IS LICENSED OR CERTIFIED UNDER
20 ARTICLE THIRTY-SIX OF THIS CHAPTER AND MEETS ALL THE REQUIREMENTS OF
21 THAT ARTICLE. PROVIDED, HOWEVER, THAT AN ADULT HOME OR AN ENRICHED
22 HOUSING PROGRAM IN POSSESSION OF AN OPERATING CERTIFICATE PURSUANT TO
23 SECTION FOUR HUNDRED SIXTY-B OF THE SOCIAL SERVICES LAW MAY CONTINUE TO
24 PROVIDE PERSONAL CARE AS AUTHORIZED BY ITS OPERATING CERTIFICATE.

25 6. AN ASSISTED LIVING OPERATOR THAT IS LICENSED SHALL NOTIFY THE
26 COMMISSIONER WITHIN THIRTY DAYS OF THE DATE:

27 (A) OF ANY CHANGE IN THE BUSINESS NAME OR ADDRESS OF THE RESIDENCE OR
28 MAILING ADDRESS OF THE OPERATOR OR OWNER;

29 (B) OF ANY CHANGE IN ANY CONTRACTOR OR ENTITY WHICH PROVIDES HOME CARE
30 SERVICES OR PERSONAL CARE SERVICES TO RESIDENTS; AND

31 (C) OF ANY CHANGES TO THE INFORMATION REQUIRED PURSUANT TO THIS
32 SECTION.

33 S 4654. RESIDENCY ADMISSION. 1. PRIOR TO ADMISSION OF A RESIDENT, THE
34 OPERATOR SHALL CONDUCT AN INITIAL ASSESSMENT OF THE RESIDENT TO DETER-
35 MINE WHETHER THE RESIDENT IS APPROPRIATE FOR ADMISSION AND THAT THE
36 RESIDENT'S NEEDS CAN BE SAFELY MET THROUGH THE PROVISION OF SERVICES.
37 ALL SUCH ASSESSMENTS SHALL BE CONDUCTED USING A UNIFORM ASSESSMENT TOOL
38 OR ONE APPROVED BY THE DEPARTMENT. NO RESIDENT SHALL BE ADMITTED UNLESS
39 HIS OR HER CARE NEEDS CAN BE SAFELY MET THROUGH THE PROVISION OF
40 SERVICES AS DETERMINED BY THE OPERATOR IN AGREEMENT WITH THE RESIDENT,
41 THE RESIDENT'S HEALTH CARE PRACTITIONER, AND IF APPLICABLE, THE RESI-
42 DENT'S REPRESENTATIVE OR LEGAL REPRESENTATIVE.

43 2. A SERVICE PLAN SHALL BE DEVELOPED BY THE RESIDENT, THE RESIDENT'S
44 HEALTH CARE PRACTITIONER OF CHOICE, THE ASSISTED LIVING RESIDENCE AND,
45 IF APPLICABLE, THE RESIDENT'S REPRESENTATIVE OR LEGAL REPRESENTATIVE FOR
46 EVERY RESIDENT ADMITTED TO AN ASSISTED LIVING RESIDENCE. SUCH PLAN
47 SHALL IDENTIFY THE SERVICES THAT THE OPERATOR WILL PROVIDE OR ARRANGE
48 FOR THE RESIDENT, WHEN AND HOW OFTEN THE SERVICES WILL BE PROVIDED, HOW
49 THE OPERATOR PLANS TO MEET THE ANTICIPATED CHANGING NEEDS OF THE RESI-
50 DENT, AND HOW AND BY WHOM THE SERVICES WILL BE PROVIDED AND ACCESSED.
51 EACH SUCH PLAN SHALL BE UPDATED WHENEVER THERE IS A SIGNIFICANT CHANGE
52 IN THE RESIDENT'S CONDITION AND AT LEAST ANNUALLY.

53 3. NO ASSISTED LIVING RESIDENCE SHALL ADMIT OR RETAIN A RESIDENT IN
54 NEED OF TWENTY-FOUR HOUR SKILLED NURSING CARE. PROVIDED, HOWEVER, THAT
55 A RESIDENT WHO WOULD OTHERWISE NOT BE ELIGIBLE FOR RETENTION IN THE
56 RESIDENCE UNDER THIS SECTION MAY CONTINUE TO RESIDE IN SAID RESIDENCE

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1 UNDER THE FOLLOWING CONDITIONS: (A) THE RESIDENT, A RESIDENT REPRESEN-
2 TATIVE, IF ANY, OR LEGAL REPRESENTATIVE, IF ANY ON BEHALF OF THE RESI-
3 DENT, PROPOSES TO SECURE NURSING OR MEDICAL STAFF TO CARE FOR THE
4 INCREASED NEEDS OF THE RESIDENT; (B) THE RESIDENT'S PHYSICIAN AND A HOME
5 CARE SERVICES AGENCY BOTH DETERMINE AND DOCUMENT THAT, WITH THE
6 PROVISION OF THE ADDITIONAL NURSING OR MEDICAL CARE, THE RESIDENT CAN BE
7 SAFELY CARED FOR IN THE RESIDENCE; (C) THE OPERATOR AGREES TO RETAIN THE
8 RESIDENT AND TO COORDINATE THE CARE PROVIDED BY THE OPERATOR AND THE
9 ADDITIONAL NURSING OR MEDICAL STAFF, IN ACCORDANCE WITH REGULATIONS OF

10 THE DEPARTMENT; (D) AND THE CONTINUED RETENTION OF THE RESIDENT IS
11 OTHERWISE IN COMPLIANCE WITH THE PROVISIONS OF APPLICABLE LAW. NO RESI-
12 DENCE SHALL ALLOW MORE THAN FIVE PERCENT OF ITS RESIDENTS TO EXERCISE
13 THIS OPTION.

14 4. UPON ADMISSION TO AN ASSISTED LIVING RESIDENCE EACH RESIDENT SHALL
15 BE GIVEN AN ADMISSION PACKET WHICH SHALL CONTAIN, AT A MINIMUM,

16 (A) A COPY OF THE RESIDENCY AGREEMENT IN NO LESS THAN TWELVE POINT
17 TYPE AND WRITTEN IN PLAIN LANGUAGE;

18 (B) A STATEMENT OF THE RESIDENT'S RIGHTS;

19 (C) CONTACT INFORMATION FOR THE LOCAL LONG-TERM CARE OMBUDSMAN OFFICE
20 AND A FACT SHEET DETAILING THE SERVICES OFFERED BY THAT OFFICE;

21 (D) A LISTING OF THE CONTACT INFORMATION OF LEGAL SERVICES OR ADVOCACY
22 AGENCIES AVAILABLE TO HANDLE LEGAL ISSUES OF SENIORS;

23 (E) A COPY OF THE CONSUMER INFORMATION GUIDE REQUIRED UNDER SECTION
24 FORTY-SIX HUNDRED SIXTY-TWO OF THIS ARTICLE;

25 (F) INFORMATION ON ALL RESIDENT ORGANIZATIONS IN THE ASSISTED LIVING
26 RESIDENCE, INCLUDING THE NAMES OF ORGANIZATION LEADERS;

27 (G) THE DEPARTMENT'S ADDRESS AND TOLL-FREE TELEPHONE NUMBER FOR
28 REPORTING OF COMPLAINTS REGARDING HOME CARE SERVICES AND THE SERVICES
29 PROVIDED BY THE RESIDENCE;

30 (H) WHICH CONDITIONS THE RESIDENCE IS CAPABLE OF CARING FOR AND WHICH
31 CONDITIONS IT IS NOT CAPABLE OF CARING FOR; AND

32 (I) A DESCRIPTION OF HOW THE RESIDENCE MANAGES THE FINANCES OF RESI-
33 DENTS.

34 S 4655. RESIDENCY AGREEMENT AND DISCLOSURES. 1. EVERY OPERATOR SHALL
35 EXECUTE WITH EACH RESIDENT A WRITTEN RESIDENCY AGREEMENT, IN NO LESS
36 THAN TWELVE POINT TYPE AND WRITTEN IN PLAIN LANGUAGE, PRIOR TO ADMIS-
37 SION. SUCH AGREEMENT SHALL:

38 (A) COMPLY WITH THE PROVISIONS OF THIS ARTICLE;

39 (B) BE DATED AND SIGNED BY THE OPERATOR, THE RESIDENT, THE RESIDENT'S
40 REPRESENTATIVE, IF ANY, AND LEGAL REPRESENTATIVE, IF ANY, AND ANY OTHER
41 PARTY TO BE CHARGED UNDER THE AGREEMENT; AND

42 (C) CONTAIN THE ENTIRE AGREEMENT OF THE PARTIES AND SHALL INCLUDE THE
43 DISCLOSURES REQUIRED BY SUBDIVISION FOUR OF THIS SECTION.

44 2. THE RESIDENT, RESIDENT'S REPRESENTATIVE, IF ANY, AND LEGAL REPRE-
45 SENTATIVE, IF ANY, SHALL BE GIVEN A COMPLETE COPY OF THE AGREEMENT AND
46 ALL SUPPORTING DOCUMENTS AND ATTACHMENTS. A COMPLETE COPY OF THE AGREE-
47 MENT SHALL ALSO BE PROVIDED TO THE RESIDENT, THE RESIDENT'S REPRESEN-
48 TATIVE, IF ANY, AND LEGAL REPRESENTATIVE, IF ANY, IF AND WHEN ANY CHANG-
49 ES ARE MADE TO THE RESIDENCY AGREEMENT.

50 3. (A) THERE SHALL BE AN IMPLIED WARRANTY OF HABITABILITY IN EACH
51 RESIDENCY AGREEMENT EXECUTED UNDER THIS SECTION THAT SHALL ENSURE THE
52 PREMISES BE FIT FOR HUMAN HABITATION AND FOR THE USES REASONABLY
53 INTENDED BY THE OPERATOR AND THE RESIDENT AND THAT THE OCCUPANTS OF THE
54 FACILITY SHALL NOT BE SUBJECTED TO ANY CONDITIONS WHICH WOULD BE DANGER-
55 OUS, HAZARDOUS OR DETRIMENTAL TO THEIR LIFE, HEALTH, SAFETY OR WELFARE.

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1 SUCH STATEMENT SHALL NOT BE READ TO BE IN ANY WAY LIMITING A RESIDENT'S
2 RIGHTS TO RELIEF IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING.

3 (B) AN ACTION FOR BREACH OF THE WARRANTY OF HABITABILITY AND ANY
4 VIOLATION OF THE RESIDENCY AGREEMENT MAY BE MAINTAINED IN A COURT OF
5 COMPETENT JURISDICTION BY THE RESIDENT, RESIDENT'S REPRESENTATIVE, IF
6 ANY, OR LEGAL REPRESENTATIVE, IF ANY.

7 4. THE RESIDENCY AGREEMENT SHALL INCLUDE, AT A MINIMUM:

8 (A) THE NAME, STREET ADDRESS, MAILING ADDRESS, AND PHONE NUMBER OF THE
9 ASSISTED LIVING RESIDENCE;

10 (B) THE NAME, MAILING ADDRESS, AND CONTACT PHONE NUMBER OF THE OWNER

11 OF THE ASSISTED LIVING RESIDENCE;
 12 (C) THE NAME, ADDRESS AND CONTACT PHONE NUMBER OF THE OPERATOR OF THE
 13 ASSISTED LIVING RESIDENCE;
 14 (D) A STATEMENT DESCRIBING THE CURRENT LICENSURE STATUS OF THE OPERA-
 15 TOR AND SUCH STATUS OF ANY PROVIDER OF HOME CARE SERVICES UNDER CONTRACT
 16 WITH THE ASSISTED LIVING RESIDENCE TO PROVIDE HOME CARE SERVICES,
 17 INCLUDING A SPECIFIC LISTING OF SUCH PROVIDERS;
 18 (E) A COPY OF RULES AND REGULATIONS OF THE ASSISTED LIVING RESIDENCE,
 19 INCLUDING BUT NOT LIMITED TO RULES SURROUNDING RESIDENT ACTIVITIES,
 20 OFFICE HOURS FOR RESIDENCE STAFF AND VISITING HOURS;
 21 (F) A DESCRIPTION OF SERVICES, MATERIAL, EQUIPMENT, FOOD AND OTHER
 22 PROVISIONS TO BE PROVIDED TO THE RESIDENT BY THE ASSISTED LIVING RESI-
 23 DENCE;
 24 (G) THE BASE FEE FOR THE SERVICES TO BE PROVIDED AND A SCHEDULE OF DUE
 25 DATES FOR PAYMENT OF SUCH FEE;
 26 (H) A DESCRIPTION OF ANY ADDITIONAL SERVICES AVAILABLE FROM THE OPERA-
 27 TOR OR THROUGH ARRANGEMENT OF THE OPERATOR FOR AN ADDITIONAL FEE AND A
 28 STATEMENT OF WHO WOULD PROVIDE SUCH SERVICES;
 29 (I) A FEE SCHEDULE OUTLINING THE COST OF ANY ADDITIONAL SERVICES;
 30 (J) AN EXPLANATION OF THE CONDITIONS UNDER WHICH THE OPERATOR MAY
 31 ADJUST THE BASE FEE FOR SERVICES AND UNDER WHICH THE OPERATOR MAY ADJUST
 32 ADDITIONAL FEES FOR SUPPLEMENTAL SERVICES;
 33 (K) A STATEMENT OF THE TOTAL FEE TO BE CHARGED TO THE RESIDENT;
 34 (L) THE BILLING AND PAYMENT PROCEDURES AND REQUIREMENTS;
 35 (M) A DESCRIPTION OF THE PROCESS THROUGH WHICH THE AGREEMENT MAY BE
 36 MODIFIED, AMENDED OR TERMINATED, AND THE TERMS AND TIME FRAMES UNDER
 37 WHICH THE AGREEMENT MAY BE TERMINATED BY EITHER PARTY;
 38 (N) THE GROUNDS TO INVOLUNTARILY TERMINATE THE AGREEMENT AND THEREBY
 39 DISCHARGE A RESIDENT OR TRANSFER A RESIDENT TO ANOTHER FACILITY;
 40 (O) A DESCRIPTION OF THE COMPLAINT RESOLUTION PROCESS AVAILABLE TO
 41 RESIDENTS;
 42 (P) AN EXPLANATION OF THE COMPLAINT PROCESS TO THE DEPARTMENT FOR ANY
 43 RESIDENCE ACTION OBJECTIONABLE TO THE RESIDENT;
 44 (Q) AN EXPLANATION OF THE INVOLUNTARY DISCHARGE OR TRANSFER PROCESS
 45 AND THE RESIDENT`S RIGHT TO REQUIRE THE ASSISTED LIVING RESIDENCE TO
 46 COMMENCE A SPECIAL PROCEEDING PURSUANT TO SECTION FORTY-SIX HUNDRED
 47 SIXTY OF THIS ARTICLE;
 48 (R) A DESCRIPTION OF THE PROCEDURES FOLLOWED IN THE EVENT THAT THE
 49 RESIDENT OR RESIDENT`S REPRESENTATIVE, IF ANY, IS NO LONGER ABLE TO PAY
 50 FOR SERVICES AGREED TO IN THE RESIDENT AGREEMENT OR FOR ADDITIONAL
 51 SERVICES OR CARE NEEDED TO ENSURE THE RESIDENT`S SAFETY;
 52 (S) THE TERMS GOVERNING THE REFUND OF ANY PREVIOUSLY PAID FEES OR
 53 CHARGES IN THE EVENT OF THE RESIDENT`S DISCHARGE OR TRANSFER FROM THE
 54 ASSISTED LIVING FACILITY OR TERMINATION OF THE RESIDENT AGREEMENT,
 55 INCLUDING AN ACCOUNTING OF ALL FEES PREVIOUSLY PAID;

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1 (T) THE NAME OF THE RESIDENT`S REPRESENTATIVE, IF ANY, AND LEGAL
 2 REPRESENTATIVE, IF ANY, AND A DESCRIPTION OF THE REPRESENTATIVE`S ROLE;
 3 (U) THE NAME AND PHONE NUMBER OF ANY ADDITIONAL PERSON OR PEOPLE FOR
 4 WHOM THE RESIDENT HAS WAIVED THE CONFIDENTIALITY OF HIS OR HER RECORDS
 5 AT THE ASSISTED LIVING RESIDENCE;
 6 (V) THE NAME AND PHONE NUMBER OF AN EMERGENCY CONTACT IDENTIFIED BY
 7 THE RESIDENT, THE RESIDENT`S REPRESENTATIVE, IF ANY, AND LEGAL REPRESEN-
 8 TATIVE, IF ANY;
 9 (W) THE CRITERIA USED BY THE OPERATOR TO DETERMINE WHO MAY BE ADMITTED
 10 TO AND RETAINED BY THE RESIDENCE, INCLUDING CRITERIA RELATED TO THE
 11 RESIDENT`S CARE NEEDS AND COMPLIANCE WITH REASONABLE RULES OF THE RESI-

12 DENCE;

13 (X) THE PROCEDURES AND PROTOCOLS FOR COMPLETING, MAINTAINING AND

14 UPDATING THE RESIDENT'S SERVICE PLAN;

15 (Y) A LIST OF ALL PROPERTY TO BE HELD FOR THE RESIDENT BY THE RESI-

16 DENCE AND ANY AUTHORIZATION BY THE RESIDENT ALLOWING THE RESIDENCE TO

17 MANAGE THE RESIDENT'S FUNDS. SUCH AUTHORIZATION SHALL INCLUDE THE NAME

18 OF THE BANKING INSTITUTION IN WHICH THE RESIDENT'S FUNDS SHALL BE DEPOS-

19 ITED AND A STATEMENT ACKNOWLEDGING THAT ALL INTEREST EARNED ON SUCH

20 FUNDS SHALL BE THE PROPERTY OF THE RESIDENT;

21 (Z) A STATEMENT WHETHER THE OPERATOR WILL ACCEPT, EITHER AS PAYMENT IN

22 PART OR IN FULL, SOURCES OF PAYMENT FOR SERVICES UNDER THE RESIDENCY

23 AGREEMENT OTHER THAN PRIVATE PAYMENT, IF APPLICABLE, SUCH AS SOCIAL

24 SECURITY BENEFITS, SUPPLEMENTAL SECURITY INCOME, MEDICARE, MEDICAID,

25 LONG TERM CARE INSURANCE, OR PRIVATE PENSION BENEFITS;

26 (AA) THE NAME AND TELEPHONE NUMBER OF AT LEAST ONE INDIVIDUAL WORKING

27 WITHIN THE RESIDENCE DESIGNATED BY THE OPERATOR TO WHOM INQUIRIES OR

28 CONCERNS ABOUT THE SERVICES PROVIDED BY THE AGREEMENT MAY BE DIRECTED;

29 AND

30 (BB) THE EFFECTIVE PERIOD OF THE AGREEMENT.

31 5. THE OPERATOR SHALL DISCLOSE, IN CONJUNCTION WITH ANY MARKETING

32 MATERIALS AND WITH THE RESIDENCY AGREEMENT REQUIRED BY THIS SECTION, ON

33 A SEPARATE INFORMATION SHEET IN PLAIN LANGUAGE AND IN AT LEAST TWELVE

34 POINT TYPE THE FOLLOWING:

35 (A) ANY OWNERSHIP INTEREST BY THE OPERATOR OR OWNER IN EXCESS OF TEN

36 PERCENT, WHETHER LEGAL OR BENEFICIAL, IN ANY ENTITY WHICH PROVIDES CARE,

37 MATERIAL, EQUIPMENT OR OTHER SERVICES TO THE RESIDENTS OF THE ASSISTED

38 LIVING RESIDENCE;

39 (B) ANY OWNERSHIP INTEREST BY ANY ENTITY WHICH PROVIDES CARE, MATERI-

40 AL, EQUIPMENT OR OTHER SERVICES TO THE RESIDENTS OF THE ASSISTED LIVING

41 RESIDENCE, IN EXCESS OF TEN PERCENT, WHETHER LEGAL OR BENEFICIAL, IN THE

42 OPERATOR OR OWNER OF SUCH RESIDENCE;

43 (C) THE SPECIFIC NATURE OF ANY SPECIAL FEATURES PROVIDED BY THE

44 ASSISTED LIVING RESIDENCE, SUCH AS SPECIALTY IN ALZHEIMER'S DISEASE,

45 INCLUDING, BUT NOT LIMITED TO, A DESCRIPTION OF THE SPECIALIZED SERVICES

46 OFFERED, A PLAN FOR MEETING THE ANTICIPATED CHANGING NEEDS OF RESIDENTS

47 WITH DEGENERATIVE DISEASES AND AN EXPLANATION OF ANY SPECIALIZED TRAIN-

48 ING AND EXPERTISE THAT THE STAFF OF THE ASSISTED LIVING RESIDENCE HAS IN

49 WORKING WITH RESIDENTS IN NEED OF SUCH SPECIALIZED SERVICES;

50 (D) A STATEMENT REGARDING THE ABILITY OF RESIDENTS TO RECEIVE SERVICES

51 FROM SERVICE PROVIDERS WITH WHOM THE OPERATOR DOES NOT HAVE AN ARRANGE-

52 MENT, STATING WHO WILL BE RESPONSIBLE FOR PAYMENT OF SUCH PROVIDERS;

53 (E) A STATEMENT THAT THE RESIDENTS SHALL HAVE THE RIGHT TO CHOOSE

54 THEIR HEALTH CARE PROVIDERS, NOTWITHSTANDING ANY OTHER AGREEMENT TO THE

55 CONTRARY, SUBJECT TO LIMITATIONS THAT MAY APPLY AS A RESULT OF A RESI-

56 DENT'S THIRD PARTY PAYOR COVERAGE; AND

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1 (F) A STATEMENT EXPLAINING THE AVAILABILITY OF AND PROCESS TO ACCESS

2 PUBLIC FUNDS FOR PAYMENT FOR RESIDENTIAL, SUPPORTIVE OR HOME CARE

3 SERVICES INCLUDING, BUT NOT LIMITED TO, AVAILABILITY OF COVERAGE FOR

4 HOME CARE SERVICES UNDER TITLE EIGHTEEN OF THE SOCIAL SECURITY ACT.

5 6. ASSISTED LIVING RESIDENCY AGREEMENTS AND RELATED DOCUMENTS EXECUTED

6 BY EACH RESIDENT, RESIDENT'S REPRESENTATIVE, IF ANY, AND LEGAL REPRESENTATIVE,

7 IF ANY, SHALL BE MAINTAINED BY THE OPERATOR IN LEGIBLE CONDITION

8 FROM THE DATE OF EXECUTION UNTIL THREE YEARS AFTER THE AGREEMENT IS

9 TERMINATED. EACH AGREEMENT SHALL BE MADE AVAILABLE FOR INSPECTION BY THE

10 COMMISSIONER AT ANY TIME UPON REQUEST.

11 S 4656. RIGHTS OF RESIDENTS IN ASSISTED LIVING RESIDENCES. 1. EVERY

12 OPERATOR OF AN ASSISTED LIVING RESIDENCE SHALL ADOPT A STATEMENT OF
13 RESIDENT RIGHTS AND RESPONSIBILITIES. SUCH STATEMENT SHALL BE CONSPICU-
14 OUSLY POSTED IN A PUBLIC PLACE IN EACH ASSISTED LIVING RESIDENCE AND
15 INCLUDED IN THE ADMISSION PACKET REQUIRED PURSUANT TO SECTION FORTY-SIX
16 HUNDRED FIFTY-FOUR OF THIS ARTICLE.

17 2. THE STATEMENT OF RESIDENT RIGHTS AND RESPONSIBILITIES SHALL
18 INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING:

19 (A) EVERY RESIDENT'S CIVIL AND RELIGIOUS LIBERTIES, INCLUDING
20 PROTECTIONS ON THE BASIS OF RACE, ETHNICITY, SEXUAL ORIENTATION AND
21 GENDER IDENTITY AND THE RIGHT TO MAKE INDEPENDENT PERSONAL DECISIONS AND
22 TO KNOWLEDGE OF AVAILABLE CHOICES, SHALL NOT BE INFRINGED;

23 (B) EVERY RESIDENT SHALL HAVE THE RIGHT TO COMMUNICATE, IN ANY FORM,
24 AND WITH ANYONE THEY CHOOSE, WITH PRIVACY RESPECTED AND PROTECTED;

25 (C) EVERY RESIDENT SHALL HAVE THE RIGHT TO PRESENT GRIEVANCES ON
26 BEHALF OF HIMSELF OR HERSELF OR OTHERS, TO THE ASSISTED LIVING RESI-
27 DENCE'S STAFF OR ADMINISTRATOR, THE DEPARTMENT OR OTHER GOVERNMENTAL
28 OFFICIALS, THE LONG TERM CARE OMBUDSMAN, OR TO ANY OTHER PERSON WITHOUT
29 FEAR OF REPRISAL, AND TO JOIN WITH OTHER RESIDENTS OR INDIVIDUALS WITHIN
30 OR OUTSIDE OF THE RESIDENCE TO WORK FOR IMPROVEMENTS IN RESIDENT CARE;

31 (D) EVERY RESIDENT SHALL HAVE THE RIGHT TO MANAGE HIS OR HER OWN
32 FINANCIAL AFFAIRS;

33 (E) EVERY RESIDENT SHALL HAVE THE RIGHT TO HAVE PRIVACY IN HIS OR HER
34 TREATMENT AND IN CARING FOR PERSONAL NEEDS;

35 (F) EVERY RESIDENT SHALL HAVE THE RIGHT TO CONFIDENTIALITY IN THE
36 TREATMENT OF PERSONAL, SOCIAL, FINANCIAL AND MEDICAL RECORDS, AND SECU-
37 RITY IN STORING PERSONAL POSSESSIONS AND THE RIGHT TO WAIVE SUCH CONFIDEN-
38 TIALITY WITH RESPECT TO CERTAIN INDIVIDUALS WHOM THE RESIDENT IDENTIFI-
39 FIES;

40 (G) EVERY RESIDENT SHALL HAVE THE RIGHT TO RECEIVE COURTEOUS, FAIR AND
41 RESPECTFUL CARE AND TREATMENT AT ALL TIMES AND SHALL NOT BE PHYSICALLY,
42 MENTALLY OR EMOTIONALLY ABUSED OR NEGLECTED IN ANY MANNER;

43 (H) EVERY RESIDENT SHALL BE FREE FROM PHYSICAL AND CHEMICAL RESTRAINT;

44 (I) NO RESIDENT SHALL BE OBLIGATED TO PERFORM WORK FOR THE ASSISTED
45 LIVING RESIDENCE;

46 (J) EVERY RESIDENT SHALL HAVE THE RIGHT TO RECEIVE OR TO SEND PERSONAL
47 MAIL OR ANY OTHER CORRESPONDENCE UNOPENED AND WITHOUT INTERCEPTION OR
48 INTERFERENCE BY THE OPERATOR OF AN ASSISTED LIVING RESIDENCE OR ANY
49 PERSON AFFILIATED THEREWITH;

50 (K) EVERY RESIDENT SHALL HAVE THE RESPONSIBILITY TO OBEY, TO THE BEST
51 OF HIS OR HER ABILITY, ALL REASONABLE REGULATIONS OF THE ASSISTED LIVING
52 RESIDENCE AND TO RESPECT THE PERSONAL RIGHTS AND PRIVATE PROPERTY OF THE
53 OTHER RESIDENTS;

54 (L) EVERY RESIDENT SHALL HAVE THE RIGHT TO INCLUDE THEIR SIGNED AND
55 WITNESSED VERSIONS OF THE EVENTS LEADING TO AN ACCIDENT OR INCIDENT IN
56 WHICH THEY ARE INVOLVED IN ANY REPORT OF SUCH ACCIDENT OR INCIDENT;

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1 (M) EVERY RESIDENT SHALL HAVE THE RIGHT TO RECEIVE VISITS FROM FAMILY
2 MEMBERS AND ANY OTHER PERSON OF THE RESIDENT'S CHOOSING;

3 (N) EVERY RESIDENT SHALL HAVE THE RIGHT TO RECEIVE A WRITTEN RESIDENCY
4 AGREEMENT PRIOR TO ADMISSION AND PERIODICALLY THEREAFTER AS CHANGES
5 NECESSITATE, AND TO RECEIVE AN ADMISSION PACKET AT THE TIME OF ADMISSION
6 AND PERIODICALLY THEREAFTER AS CHANGES NECESSITATE;

7 (O) EVERY RESIDENT AND HIS OR HER REPRESENTATIVE, IF ANY, SHALL HAVE
8 THE RIGHT TO REVIEW OR COPY ANY FILES THAT THE RESIDENCE MAINTAINS ON
9 THE RESIDENT'S BEHAVIOR AND HEALTH, AND TO OBJECT TO ANY OF THE CONTENTS
10 OF THOSE FILES IN WRITING. SUCH OBJECTIONS SHALL BE INCLUDED IN THE
11 RESIDENT'S FILE;

12 (P) EVERY RESIDENT SHALL HAVE THE RIGHT TO DESIGNATE A REPRESENTATIVE
13 TO BE RECOGNIZED BY THE FACILITY TO ACT ON THE RESIDENT`S BEHALF AND TO
14 CHANGE SUCH DESIGNATION WHEN THE RESIDENT CHOOSES;

15 (Q) EVERY RESIDENT SHALL HAVE THE RIGHT TO TERMINATE THE RESIDENCY
16 AGREEMENT AFTER PROVIDING THIRTY DAYS WRITTEN NOTICE TO THE ASSISTED
17 LIVING RESIDENCE;

18 (R) EVERY RESIDENT SHALL HAVE THE RIGHT TO A REFUND OF ANY UNUSED
19 PORTION OF PREPAID FEES OR CHARGES IN THE EVENT OF TERMINATION OF THE
20 RESIDENCY AGREEMENT, DISCHARGE, OR TRANSFER;

21 (S) EVERY RESIDENT SHALL HAVE THE RIGHT TO WRITTEN NOTICE OF ANY FEE
22 INCREASE NOT LESS THAN NINETY DAYS PRIOR TO THE PROPOSED EFFECTIVE DATE
23 OF THE FEE INCREASE AND EVERY RESIDENT SHALL HAVE THE RIGHT TO A
24 DESCRIPTION OF THE PROCESS UTILIZED TO INCREASE FEES;

25 (T) EVERY RESIDENT SHALL HAVE THE RIGHT TO WRITTEN NOTICE OF ANY
26 ASSISTED LIVING RESIDENCE CLOSURE NOT LESS THAN NINETY DAYS PRIOR TO THE
27 SCHEDULED CLOSURE; AND

28 (U) EVERY RESIDENT SHALL HAVE THE RIGHT TO CHOOSE THEIR HEALTH CARE
29 PROVIDERS, NOTWITHSTANDING ANY AGREEMENT TO THE CONTRARY, SUBJECT TO
30 LIMITATIONS THAT MAY APPLY AS A RESULT OF A RESIDENT`S THIRD PARTY PAYOR
31 COVERAGE.

32 3. NO PROVISION OF THIS ARTICLE, INCLUDING THE RESIDENT`S RIGHTS AND
33 RESPONSIBILITIES REQUIRED BY SUBDIVISION TWO OF THIS SECTION, MAY BE
34 WAIVED BY THE RESIDENT, THE RESIDENT`S REPRESENTATIVE OR LEGAL REPRESEN-
35 TATIVE, OR THE ASSISTED LIVING RESIDENCE.

36 4. EVERY STAFF MEMBER OF THE ASSISTED LIVING RESIDENCE SHALL RECEIVE A
37 COPY OF THE STATEMENT OF RESIDENT RIGHTS AND RESPONSIBILITIES AND SIGN
38 AN ACKNOWLEDGMENT OF THE RECEIPT THEREOF, AND EVERY STAFF MEMBER SHALL
39 RECEIVE TRAINING ON SUCH STATEMENT UPON COMMENCEMENT OF EMPLOYMENT AND
40 PERIODICALLY THEREAFTER, AS CHANGES NECESSITATE.

41 S 4657. RESIDENT FUNDS AND PROPERTY. 1. WHENEVER A RESIDENT AUTHORIZES
42 AN OPERATOR OF AN ASSISTED LIVING RESIDENCE OR ANY PERSON AFFILIATED
43 THEREWITH, TO EXERCISE CONTROL OVER HIS OR HER MONEY OR PROPERTY, SUCH
44 AUTHORIZATION SHALL BE IN WRITING AS PART OF THE RESIDENCY AGREEMENT,
45 SUBSCRIBED BY THE PARTIES TO BE CHARGED. ANY SUCH MONEY OR PROPERTY
46 BELONGING TO THE RESIDENT SHALL NOT BE MINGLED WITH THE FUNDS OR BECOME
47 AN ASSET OF THE OPERATOR OR BE TRANSFERRED TO ANY OTHER PERSON AFFIL-
48 IATED WITH THE ASSISTED LIVING RESIDENCE.

49 2. AN OPERATOR OR EMPLOYEE OF A RESIDENCE WHICH IS A REPRESENTATIVE
50 PAYEE OF A RESIDENT OF SUCH RESIDENCE PURSUANT TO DESIGNATION BY THE
51 SOCIAL SECURITY ADMINISTRATION OR WHICH OTHERWISE ASSUMES MANAGEMENT
52 RESPONSIBILITY OVER THE FUNDS OF A RESIDENT SHALL MAINTAIN SUCH FUNDS IN
53 A FIDUCIARY CAPACITY TO THE RESIDENT IN AN INTEREST BEARING ACCOUNT AT A
54 BANKING INSTITUTION LICENSED BY THIS STATE. ANY INTEREST ON MONEY
55 RECEIVED AND HELD FOR THE RESIDENT SHALL BE PROPERTY OF THE INDIVIDUAL
56 RESIDENT AND SHALL BE RETURNED TO THE RESIDENT, TOGETHER WITH THE PRIN-

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1 CIPAL IN THE RESIDENT`S ACCOUNT, WITHIN THIRTY DAYS OF THE RESIDENT`S
2 DISCHARGE FROM THE RESIDENCE. THE DEPARTMENT, THE DEPARTMENT OF AUDIT
3 AND CONTROL AND THE DEPARTMENT OF LAW SHALL HAVE THE POWER TO REVIEW THE
4 STATUS OF ANY SUCH ACCOUNTS AT ANY TIME.

5 S 4658. RESIDENT ORGANIZATIONS. EVERY ASSISTED LIVING OPERATOR SHALL:

6 1. ASSIST IN THE DEVELOPMENT AND OPERATION OF A RESIDENT COUNCIL;

7 2. PROVIDE PRIVATE SPACE FOR ORGANIZATIONAL ACTIVITIES;

8 3. ENSURE THAT THE ORGANIZATION IS ABLE TO MEET AS OFTEN AS THE
9 MEMBERSHIP DEEMS NECESSARY;

10 4. ENSURE THAT THE ORGANIZATIONS ARE LED BY THE RESIDENTS;

11 5. ALLOW THE ORGANIZATION TO MEET WITH ANY MEMBER OF THE SUPERVISORY

12 STAFF, PROVIDED THAT REASONABLE NOTICE OF THE REQUEST IS GIVEN TO SUCH
 13 STAFF;

14 6. IF THE ORGANIZATION DESIRES, APPOINT A STAFF PERSON TO SERVE AS A
 15 LIAISON BETWEEN THE ORGANIZATION AND THE ADMINISTRATION TO REPORT ALL
 16 PROBLEMS, ISSUES AND SUGGESTIONS IDENTIFIED BY THE ORGANIZATION AS NEED-
 17 ING ADMINISTRATIVE ACTION;

18 7. ENSURE THAT ANY COMPLAINTS, PROBLEMS OR ISSUES REPORTED BY THE
 19 ORGANIZATION TO THE DESIGNATED STAFF PERSON OR ADMINISTRATION BE
 20 ADDRESSED THROUGH A WRITTEN RESPONSE ADDRESSING THE PROBLEMS, ISSUES OR
 21 SUGGESTIONS BE SENT TO THE ORGANIZATION WITHIN THIRTY DAYS OF THE REPORT
 22 OF THE PROBLEM, ISSUE OR SUGGESTION; AND

23 8. ASSIST IN THE DEVELOPMENT AND OPERATION OF A FAMILY COUNCIL,
 24 PROVIDING SUCH COUNCIL WITH ACCESS TO PRIVATE SPACE IN THE ASSISTED
 25 LIVING RESIDENCE FOR REGULAR MEETINGS.

26 S 4659. DISCHARGE AND TRANSFER. 1. WHEN A RESIDENT WISHES TO VOLUN-
 27 TARILY TERMINATE HIS OR HER RESIDENCY AGREEMENT, THE RESIDENT OR RESI-
 28 DENT`S REPRESENTATIVE, IF ANY, OR LEGAL REPRESENTATIVE, IF ANY, SHALL
 29 GIVE THIRTY DAYS WRITTEN NOTICE TO THE ASSISTED LIVING RESIDENCE.

30 2. WHEN A SUDDEN AND UNEXPECTED HEALTH EMERGENCY ARISES NECESSITATING
 31 THE IMMEDIATE TRANSFER OF A RESIDENT TO AN ACUTE CARE FACILITY, THE
 32 ASSISTED LIVING RESIDENCE SHALL IMMEDIATELY NOTIFY THE RESIDENT`S EMER-
 33 GENCY CONTACT, THE RESIDENT`S REPRESENTATIVE, IF ANY, OR LEGAL REPRESEN-
 34 TATIVE, IF ANY, AND THE RESIDENT`S HEALTH CARE PRACTITIONER OF THE
 35 TRANSFER. THE ASSISTED LIVING RESIDENCE SHALL PROVIDE THE EMERGENCY
 36 CONTACT, THE REPRESENTATIVE, IF ANY, OR LEGAL REPRESENTATIVE IF ANY, AND
 37 THE HEALTH CARE PRACTITIONER WITH THE INFORMATION CONCERNING CAUSE OF
 38 THE TRANSFER AND THE NAME AND LOCATION OF THE ACUTE CARE FACILITY.

39 3. AFTER A RESIDENT IS TRANSFERRED PURSUANT TO SUBDIVISION TWO OF THIS
 40 SECTION, THE ASSISTED LIVING RESIDENCE SHALL DETERMINE IF THE RESIDENT
 41 IS APPROPRIATE FOR RETURN TO THE RESIDENCE PURSUANT TO THE CRITERIA AND
 42 PROCESS ESTABLISHED FOR ADMISSION ESTABLISHED IN SECTION FORTY-SIX
 43 HUNDRED FIFTY-FOUR OF THIS ARTICLE. THE SERVICE PLAN FOR SUCH RESIDENT
 44 SHALL BE UPDATED TO ADDRESS ANY NEW CARE NEEDS PRIOR TO THE RESIDENT`S
 45 RETURN TO THE RESIDENCE. IF, IN ASSESSING THE RESIDENT`S APPROPRIATENESS
 46 FOR RETURN TO THE RESIDENCE, THE RESIDENCE DETERMINES THAT THE RESIDENT
 47 IS NO LONGER ABLE TO SAFELY RESIDE IN THE RESIDENCE, DISCHARGE PLANNING
 48 SHALL TAKE PLACE PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION AND THE
 49 RESIDENT SHALL RETAIN THE RIGHT TO REQUIRE THE RESIDENCE TO COMMENCE A
 50 SPECIAL PROCEEDING PURSUANT TO SECTION FORTY-SIX HUNDRED SIXTY OF THIS
 51 ARTICLE.

52 4. SHOULD THE RESIDENT REQUIRE THE ASSISTED LIVING RESIDENCE TO
 53 COMMENCE A SPECIAL PROCEEDING PURSUANT TO SECTION FORTY-SIX HUNDRED
 54 SIXTY OF THIS ARTICLE BECAUSE THE RESIDENT IS HOSPITALIZED AND THE RESI-
 55 DENCE HAS DETERMINED THAT THE RESIDENT`S CARE NEEDS CAN NO LONGER BE
 56 SAFELY MET AT THE RESIDENCE, THE COURT SHALL HEAR AND DECIDE THE MATTER

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1 WITHIN TWO COURT DAYS OF THE FILING OF THE PETITION FOR THE SPECIAL
 2 PROCEEDING.

3 5. AN ASSISTED LIVING RESIDENCE MAY ONLY INVOLUNTARILY DISCHARGE A
 4 RESIDENT AFTER ATTEMPTING TO RESOLVE WITH THE RESIDENT, THE RESIDENT`S
 5 REPRESENTATIVE, IF ANY, THE RESIDENT`S LEGAL REPRESENTATIVE, IF ANY, AND
 6 THE RESIDENT`S HEALTH CARE PRACTITIONER, THE CIRCUMSTANCES THAT HAVE THE
 7 POTENTIAL OF RESULTING IN INVOLUNTARY TERMINATION OF RESIDENCY AND WHEN:

8 (A) A RESIDENT`S CARE NEEDS CAN NO LONGER BE SAFELY MET EITHER THROUGH
 9 THE PROVISION OF SERVICES BY THE ASSISTED LIVING RESIDENCE OR THROUGH
 10 THE PROVISION OF SERVICES FROM ANOTHER SERVICE PROVIDER. HOWEVER, ANY
 11 RESIDENCE THAT CAN NO LONGER SAFELY MEET THE CARE NEEDS OF A RESIDENT

12 BECAUSE OF CHANGES IN THE FACILITY STAFFING OR PHYSICAL STRUCTURE SHALL
13 ENSURE THAT ALL REASONABLE ACCOMMODATIONS ARE MADE TO MEET THE CARE
14 NEEDS THAT THE RESIDENCE AGREED COULD BE MET IN THE RESIDENT'S CARE
15 PLAN;

16 (B) THE RESIDENT'S BEHAVIOR CAUSES A CREDIBLE RISK OF SERIOUS IMMINENT
17 DANGER TO HIMSELF OR HERSELF OR OTHERS; OR

18 (C) THE RESIDENT, AFTER RECEIVING REASONABLE AND SUFFICIENT NOTICE, IS
19 UNABLE TO PAY ALL THE FEES AND COSTS DETAILED AS APPLICABLE TO THAT
20 RESIDENT IN HIS OR HER RESIDENCY AGREEMENT. HOWEVER, A RESIDENT SHALL
21 NOT BE DISCHARGED FOR FAILURE TO PAY WHILE A CHARGE IS IN DISPUTE OR
22 WHEN AN APPEAL OR DENIAL OF PUBLIC BENEFITS IS PENDING.

23 6. PRIOR TO INVOLUNTARY DISCHARGE OR TRANSFER OF A RESIDENT, AN
24 ASSISTED LIVING RESIDENCE SHALL PROVIDE A THIRTY DAY WRITTEN DISCHARGE
25 NOTICE TO THE RESIDENT, THE RESIDENT'S REPRESENTATIVE, IF ANY, AND LEGAL
26 REPRESENTATIVE, IF ANY. SUCH NOTICE SHALL BE HAND DELIVERED TO THE RESI-
27 DENT AND MAILED TO THE LAST KNOWN ADDRESS OF THE RESIDENT'S REPRESENTATIVE,
28 IF ANY, AND LEGAL REPRESENTATIVE, IF ANY, VIA CERTIFIED MAIL,
29 RETURN RECEIPT REQUESTED. THE WRITTEN DISCHARGE NOTICE SHALL INCLUDE:

30 (A) THE REASON FOR THE DISCHARGE OR TRANSFER, PREVIOUS STEPS TAKEN BY
31 THE ASSISTED LIVING RESIDENCE WITH THE RESIDENT, THE RESIDENT'S REPRESENTATIVE,
32 IF ANY, OR LEGAL REPRESENTATIVE, IF ANY, AND THE RESIDENT'S
33 HEALTH CARE PRACTITIONER TO CURE THE SITUATION AND AVERT AN INVOLUNTARY
34 DISCHARGE OR TRANSFER, AND THE DATE OF SUCH DISCHARGE OR TRANSFER;

35 (B) A STATEMENT INFORMING THE RESIDENT OF HIS OR HER RIGHT TO OBJECT
36 TO THE DISCHARGE OR TRANSFER AND REQUIRE THE OPERATOR OF THE ASSISTED
37 LIVING RESIDENCE TO COMMENCE A SPECIAL PROCEEDING PURSUANT TO SECTION
38 FORTY-SIX HUNDRED SIXTY OF THIS ARTICLE;

39 (C) A LIST OF FREE LOCAL LEGAL SERVICES AND ADVOCACY RESOURCES WITH
40 THEIR TELEPHONE NUMBERS, INCLUDING THE LONG TERM CARE OMBUDSMAN;

41 (D) NOTICE THAT THE RESIDENT HAS THE RIGHT TO REMAIN IN THE ASSISTED
42 LIVING RESIDENCE UNTIL ANY SPECIAL PROCEEDING BROUGHT PURSUANT TO
43 SECTION FORTY-SIX HUNDRED SIXTY OF THIS ARTICLE HAS CONCLUDED;

44 (E) A DESCRIPTION OF DISCHARGE PLANNING SERVICES PROVIDED BY THE
45 ASSISTED LIVING RESIDENCE; AND

46 (F) THE TERMS GOVERNING THE REFUND OF ANY UNUSED PORTION OF PREPAID
47 FEES OR CHARGES IN THE EVENT OF DISCHARGE OR TRANSFER OF THE RESIDENT.

48 7. A RESIDENT HAS THE FOLLOWING RIGHTS WHEN FACED WITH INVOLUNTARY
49 DISCHARGE OR TRANSFER:

50 (A) THE RIGHT TO OBJECT TO THE DISCHARGE OR TRANSFER, TO REMAIN AT THE
51 ASSISTED LIVING RESIDENCE, AND TO THEREBY REQUIRE THE OPERATOR OF THE
52 ASSISTED LIVING RESIDENCE TO COMMENCE A SPECIAL PROCEEDING PURSUANT TO
53 SECTION FORTY-SIX HUNDRED SIXTY OF THIS ARTICLE;

54 (B) THE RIGHT TO REMAIN IN THE ASSISTED LIVING RESIDENCE WHILE ANY
55 SUCH SPECIAL PROCEEDING BROUGHT PURSUANT TO SECTION FORTY-SIX HUNDRED
56 SIXTY OF THIS ARTICLE IS PENDING;

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1 (C) THE RIGHT TO RECEIVE A FINAL WRITTEN STATEMENT OF HIS OR HER
2 PAYMENT ACCOUNT AND PERSONAL ALLOWANCE ACCOUNT AND TO RECEIVE, IMMEDIATELY
3 UPON INVOLUNTARY DISCHARGE, ANY MONEY OR PROPERTY HELD IN TRUST
4 OR IN CUSTODY BY THE OPERATOR;

5 (D) THE RIGHT TO THE SERVICE AND SERVICES REQUIRED IN THE RESIDENT'S
6 CARE PLAN AND HIS OR HER RESIDENCY AGREEMENT WHILE ANY SPECIAL PROCEEDING
7 BROUGHT PURSUANT TO SECTION FORTY-SIX HUNDRED SIXTY OF THIS ARTICLE
8 IS PENDING AND TO BE FREE FROM INTIMIDATION AND HARASSMENT WHILE ANY
9 SUCH SPECIAL PROCEEDING IS PENDING; AND

10 (E) THE RIGHT TO ASSISTANCE WITH DISCHARGE PLANNING FROM THE ASSISTED
11 LIVING RESIDENCE.

12 8. EVERY OPERATOR OF AN ASSISTED LIVING RESIDENCE SHALL ASSIST ANY
13 RESIDENT WHOM THE RESIDENCE PROPOSES TO INVOLUNTARILY DISCHARGE TO
14 ENSURE THAT THE RESIDENT MOVES INTO A CARE SETTING IN WHICH THE RESI-
15 DENT'S CARE NEEDS CAN BE SAFELY AND APPROPRIATELY MET AND IS CONSISTENT
16 WITH THE RESIDENT'S WISHES TO THE EXTENT PRACTICABLE.

17 S 4660. SPECIAL PROCEEDING FOR TERMINATION OF ASSISTED LIVING RESI-
18 DENCE RESIDENCY AGREEMENTS. 1. (A) A SPECIAL PROCEEDING TO TERMINATE THE
19 RESIDENCY AGREEMENT OF A RESIDENT OF AN ASSISTED LIVING RESIDENCE AND
20 INVOLUNTARILY DISCHARGE OR TRANSFER THE RESIDENT THEREFROM MAY BE MAIN-
21 TAINED IN THE COUNTY COURT, THE JUSTICE COURT OF THE VILLAGE, THE TOWN
22 JUSTICE COURT, THE COURT OF CIVIL JURISDICTION IN A CITY, OR THE
23 DISTRICT COURT WHICH HAS JURISDICTION OVER PROCEEDINGS BROUGHT PURSUANT
24 TO ARTICLE SEVEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW.

25 (B) THE PLACE OF TRIAL OF THE SPECIAL PROCEEDING SHALL BE WITHIN THE
26 JURISDICTIONAL AREA OF THE COURT IN WHICH THE ASSISTED LIVING RESIDENCE
27 IS LOCATED; EXCEPT THAT WHERE THE FACILITY IS LOCATED IN AN INCORPORATED
28 VILLAGE WHICH INCLUDES PARTS OF TWO OR MORE TOWNS, THE PROCEEDING MAY BE
29 TRIED BY A TOWN JUSTICE OF ANY SUCH TOWN WHO KEEPS AN OFFICE IN THE
30 VILLAGE.

31 2. THE PROCEEDING MAY BE BROUGHT BY THE OPERATOR OF AN ASSISTED LIVING
32 RESIDENCE.

33 3. (A) THE SPECIAL PROCEEDING PRESCRIBED BY THIS SECTION SHALL BE
34 COMMENCED BY PETITION AND A NOTICE OF PETITION. A NOTICE OF PETITION
35 SHALL BE ISSUED ONLY BY AN ATTORNEY, JUDGE OR THE CLERK OF THE COURT; IT
36 SHALL NOT BE ISSUED BY A PARTY PROSECUTING THE PROCEEDING IN PERSON.

37 (B) THE NOTICE OF PETITION SHALL SPECIFY THE TIME AND PLACE OF THE
38 HEARING ON THE PETITION.

39 4. THE NOTICE OF PETITION AND PETITION SHALL BE SERVED AT LEAST FIVE
40 AND NOT MORE THAN TWELVE DAYS BEFORE THE TIME AT WHICH THE PETITION IS
41 NOTICED TO BE HEARD.

42 5. (A) SERVICE OF THE NOTICE OF PETITION AND PETITION SHALL BE MADE BY
43 PERSONALLY DELIVERING THEM TO THE RESIDENT; AND AT THE TIME OF SUCH
44 SERVICE, A COPY OF SUCH NOTICE OF PETITION AND PETITION SHALL BE MAILED
45 TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND LEGAL REPRESENTATIVE, IF
46 ANY, AND THE DEPARTMENT.

47 (B) THE NOTICE OF PETITION AND PETITION TOGETHER WITH PROOF OF SERVICE
48 THEREOF ON THE RESIDENT AND PROOF THAT COPIES THEREOF HAVE BEEN MAILED
49 TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND LEGAL REPRESENTATIVE, IF
50 ANY, SHALL BE FILED WITH THE COURT OR CLERK THEREOF WITHIN THREE DAYS
51 AFTER DELIVERY TO THE RESIDENT.

52 (C) SERVICE SHALL BE COMPLETE UPON FILING PROOF OF SERVICE.

53 6. THE PETITION SHALL BE VERIFIED BY THE PERSON AUTHORIZED BY SUBDIVI-
54 SION TWO OF THIS SECTION TO MAINTAIN THE PROCEEDING; OR BY A LEGAL
55 REPRESENTATIVE, ATTORNEY OR AGENT OF SUCH PERSON PURSUANT TO SUBDIVISION

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1 (D) OF SECTION THREE THOUSAND TWENTY OF THE CIVIL PRACTICE LAW AND
2 RULES.

3 EVERY PETITION SHALL:

4 (A) STATE THE INTEREST OF THE PETITIONER IN THE PREMISES FROM WHICH
5 REMOVAL IS SOUGHT;

6 (B) STATE THE RESIDENT'S INTEREST IN THE PREMISES AND HIS OR HER
7 RELATIONSHIP TO PETITIONER WITH REGARD THERETO;

8 (C) DESCRIBE THE PREMISES FROM WHICH REMOVAL IS SOUGHT;

9 (D) STATE THE FACTS UPON WHICH THE SPECIAL PROCEEDING IS BASED; AND

10 (E) STATE THE RELIEF SOUGHT. THE RELIEF MAY INCLUDE A JUDGMENT FOR
11 PAYMENT OF ALL CHARGES, EXPENSES AND OTHER ASSESSMENTS DUE.

12 7. THE RESIDENT MAY ANSWER IN WRITING PRIOR TO THE DATE THE PETITION

13 IS TO BE HEARD OR ORALLY AT THE TIME THE PETITION IS HEARD. THE RESIDENT
14 MAY INTERPOSE ANY DEFENSE THAT HE OR SHE MAY HAVE IN HIS OR HER ANSWER.

15 8. IF THE RELIEF SOUGHT BY THE OPERATOR INCLUDES A JUDGMENT FOR
16 PAYMENT OF ALL CHARGES, EXPENSES AND OTHER ASSESSMENTS DUE, THEN ANY
17 COUNTERCLAIMS WHICH THE RESIDENT MAY HAVE AGAINST THE OPERATOR MAY BE
18 HEARD IN A SPECIAL PROCEEDING MAINTAINED PURSUANT TO THE PROVISIONS OF
19 THIS SECTION, PROVIDED, HOWEVER, THAT THE COURT IN ITS DISCRETION MAY
20 SEVER SUCH CLAIMS AND COUNTERCLAIMS FROM THE SPECIAL PROCEEDING.

21 9. WHERE TRIABLE ISSUES OF FACT ARE RAISED, SUCH ISSUES SHALL BE TRIED
22 BY THE COURT. THE COURT, IN ITS DISCRETION, AT THE REQUEST OF ONE OR
23 BOTH OF THE PARTIES MAY GRANT AN ADJOURNMENT FOR NOT MORE THAN TEN DAYS.

24 10. (A) THE COURT SHALL DIRECT THAT A FINAL JUDGMENT BE ENTERED DETER-
25 MINING THE RIGHTS OF THE PARTIES WITH REGARD TO THE RESIDENCY AGREEMENT.

26 (B) THE JUDGMENT, INCLUDING SUCH MONEY AS IT MAY AWARD FOR USE AND
27 OCCUPANCY OF THE FACILITY OR OTHERWISE, MAY BE DOCKETED IN SUCH BOOKS AS
28 THE COURT MAINTAINS FOR RECORDING THE STEPS IN A SUMMARY PROCEEDING;
29 UNLESS A RULE OF THE COURT, OR THE COURT BY ORDER IN A GIVEN CASE OTHER-
30 WISE PROVIDES, SUCH JUDGMENT NEED NOT BE RECORDED OR DOCKETED IN THE
31 BOOKS, IF SEPARATELY MAINTAINED IN WHICH ARE DOCKETED MONEY JUDGMENTS IN
32 AN ACTION.

33 11. (A) UPON RENDERING A FINAL JUDGMENT FOR PETITIONER, THE COURT
34 SHALL ISSUE AN ORDER OF REMOVAL DIRECTED TO THE SHERIFF OF THE COUNTY OR
35 TO ANY CONSTABLE OR MARSHAL OF THE CITY IN WHICH THE FACILITY IS SITU-
36 ATED, OR, IF IT IS NOT SITUATED IN A CITY TO ANY CONSTABLE OF ANY TOWN
37 IN THE COUNTY, DESCRIBING THE PROPERTY, AND COMMANDING THE OFFICER TO
38 REMOVE THE RESIDENT.

39 (B) THE OFFICER TO WHOM THE ORDER OF REMOVAL IS DIRECTED AND DELIVERED
40 SHALL GIVE AT LEAST SEVENTY-TWO HOURS NOTICE, IN WRITING AND IN THE
41 MANNER PRESCRIBED IN THIS SECTION FOR THE SERVICE OF A NOTICE OF PETI-
42 TION, TO THE PERSON TO BE REMOVED AND SHALL EXECUTE THE ORDER BETWEEN
43 THE HOURS OF SUNRISE AND SUNSET.

44 12. (A) IF A PROCEEDING IS BROUGHT BY AN OPERATOR OF AN ASSISTED
45 LIVING RESIDENCE PURSUANT TO THE PROVISIONS OF THIS SECTION AND THE
46 REASON FOR THE PROCEEDING IS THAT A RESIDENT OF SUCH A FACILITY HAS NOT
47 PAID THE AUTHORIZED CHARGES, THE COURT SHALL STAY THE ISSUANCE OF THE
48 ORDER OF REMOVAL FOR TEN DAYS FROM THE DATE A JUDGMENT IS RENDERED. THE
49 COURT, IN ITS DISCRETION, MAY STAY THE ISSUANCE OF AN ORDER OF REMOVAL
50 FOR UP TO NINETY DAYS IF THE REASON FOR THE TERMINATION OF THE RESIDENCY
51 AGREEMENT AND DISCHARGE OF THE RESIDENT IS THAT THE RESIDENT FAILED TO
52 PAY THE AUTHORIZED CHARGES AND SUCH NONPAYMENT WAS DUE TO AN INTER-
53 RUPTION BY A GOVERNMENT AGENCY IN THE DELIVERY TO SUCH RESIDENT OF ANY
54 PUBLIC BENEFITS TO WHICH SUCH RESIDENT IS ENTITLED. DURING THE PENDENCY
55 OF SUCH STAY, THE OPERATOR OF THE FACILITY SHALL BE REQUIRED TO ASSIST
56 THE RESIDENT WHO SHALL COOPERATE WITH THE OPERATOR, IN OBTAINING ANY

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1 SUCH PUBLIC BENEFITS OR ANY SUPPLEMENTAL PUBLIC BENEFITS WHICH ARE
2 AVAILABLE TO PERSONS WHO HAVE NOT RECEIVED THEIR REGULAR PUBLIC BENE-
3 FITS.

4 (B) IF A PROCEEDING IS BROUGHT BY AN OPERATOR OF AN ASSISTED LIVING
5 RESIDENCE PURSUANT TO THE PROVISION OF THIS SECTION, AND THE REASON FOR
6 THE PROCEEDING IS THE INABILITY OF THE RESIDENCE TO SAFELY MEET THE CARE
7 NEEDS OF THE RESIDENT EITHER THROUGH THE DIRECT PROVISION OF SERVICES OR
8 THROUGH THE PROVISION OF SERVICES FROM ANOTHER SERVICE PROVIDER, THE
9 COURT, IN ITS DISCRETION, UPON APPLICATION OF THE RESIDENT, MAY STAY THE
10 ISSUANCE OF THE ORDER OF REMOVAL FOR UP TO THIRTY DAYS FROM THE DATE A
11 JUDGMENT IS RENDERED.

12 13. DURING THE PENDENCY OF A SPECIAL PROCEEDING BROUGHT PURSUANT TO

13 THIS SECTION, THE OPERATOR OF AN ASSISTED LIVING RESIDENCE, THE RESI-
14 DENT, AND ANY OTHER PARTIES TO THE RESIDENCY AGREEMENT, SHALL BE
15 REQUIRED TO HONOR ALL TERMS OF THE RESIDENCY AGREEMENT UNTIL THE RESI-
16 DENT IS REMOVED.

17 14. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO ALTER OR
18 ABRIDGE ANY RIGHT OF A RESIDENT OR OPERATOR OF AN ASSISTED LIVING RESI-
19 DENCE TO OBTAIN ANY RELIEF TO WHICH SUCH PERSONS ARE ENTITLED IN ANY
20 OTHER COURT OF COMPETENT JURISDICTION.

21 S 4661. ADDITIONAL REQUIREMENTS. EVERY OPERATOR OF AN ASSISTED LIVING
22 RESIDENCE SHALL POST THE FOLLOWING DOCUMENTS IN A CONSPICUOUS PUBLIC
23 LOCATION WITHIN THE ASSISTED LIVING RESIDENCE:

- 24 1. PROOF OF LICENSURE;
- 25 2. A SUMMARY OR COMPLETE COPY OF THE MOST RECENT INSPECTION REPORT;
- 26 3. THE STATEMENT OF RESIDENT RIGHTS AND RESPONSIBILITIES;
- 27 4. EVACUATION PROCEDURES IN CASE OF EMERGENCY;
- 28 5. NOTICE PROHIBITING EMPLOYEES FROM ACCEPTING REMUNERATION, TIPS OR
29 GRATUITIES;
- 30 6. PROCEDURES FOR PRESENTING GRIEVANCES AND RECOMMENDATION;
- 31 7. THE NAME AND TITLE OF ANY IN-HOUSE MEDICAL PERSONNEL; AND
- 32 8. THE PHONE NUMBER TO THE LOCAL LONG TERM CARE OMBUDSMAN PROGRAM.

33 S 4662. POWERS AND DUTIES OF THE COMMISSIONER. THE COMMISSIONER SHALL:

- 34 1. PROMULGATE, ALTER AND AMEND, IN CONSULTATION WITH THE OFFICE FOR
35 THE AGING AND IN CONSULTATION WITH CONSUMERS OF ASSISTED LIVING SERVICES
36 AND OPERATORS, RULES AND REGULATIONS TO EFFECTUATE THE PROVISIONS OF
37 THIS ARTICLE. SUCH RULES AND REGULATIONS SHALL ENSURE THAT ASSISTED
38 LIVING RESIDENCES ARE OPERATED IN A MANNER SO AS TO PROMOTE THE DIGNITY,
39 INDIVIDUALITY, PRIVACY, DECISION-MAKING ABILITY AND SAFETY OF ASSISTED
40 LIVING RESIDENTS;
- 41 2. DEVELOP, IN CONSULTATION WITH THE DIRECTOR OF THE OFFICE FOR THE
42 AGING, CONSUMERS AND OPERATORS OF ASSISTED LIVING RESIDENCES, A CONSUMER
43 INFORMATION GUIDE TO INFORM AND ASSIST CONSUMERS IN THE SELECTION OF AN
44 ASSISTED LIVING RESIDENCE. SUCH GUIDE SHALL INCLUDE A CHECKLIST THAT
45 WILL ALLOW CONSUMERS TO EASILY COMPARE THE FACILITIES, SERVICES, ACTIV-
46 ITIES AND RATES AT VARIOUS ASSISTED LIVING RESIDENCES AND A HEALTH CARE
47 PROVIDER INFORMATION GUIDE TO INFORM PHYSICIANS AND HOME CARE AGENCIES
48 OF THEIR ROLE IN THE ASSESSMENT AND DEVELOPMENT OF THE SERVICE PLAN;
- 49 3. EXAMINE THE RECORDS, FILES AND BOOKS OF ANY ASSISTED LIVING RESI-
50 DENCE TO DETERMINE THE ACCURACY OF THE FACILITY'S FINANCIAL STATEMENT;
- 51 4. MAKE UNANNOUNCED PERIODIC INSPECTIONS OF EACH ASSISTED LIVING RESI-
52 DENCE TO PROCURE INFORMATION REQUIRED TO CARRY OUT THE PROVISIONS OF
53 THIS ARTICLE AND MAKE NECESSARY INVESTIGATIONS TO PROCURE INFORMATION
54 REQUIRED TO CARRY OUT THE PROVISIONS OF THIS ARTICLE. EACH LICENSED
55 LIVING RESIDENCE SHALL BE INSPECTED AT LEAST ONCE EVERY EIGHTEEN MONTHS
56 ON AN UNANNOUNCED BASIS; PROVIDED THAT ANY ASSISTED LIVING RESIDENCE

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1 FOUND TO BE IN VIOLATION OF ANY PROVISION OF THIS ARTICLE, ANY RULE OR
2 REGULATION PROMULGATED BY THE DEPARTMENT, OR THE TERMS OR CONDITIONS OF
3 ANY ORDER OR PERMIT ISSUED BY THE DEPARTMENT PURSUANT TO THIS ARTICLE
4 SHALL BE REINSPECTED WITHIN SIX MONTHS OF THE INSPECTION DURING WHICH
5 THE VIOLATION WAS DISCOVERED, AND SUCH ASSISTED LIVING RESIDENCE SHALL
6 THEREAFTER BE INSPECTED AT LEAST ANNUALLY UNTIL COMPLETING TWO SUBSE-
7 QUENT INSPECTIONS WITHOUT ANY VIOLATIONS; AND

8 5. RECEIVE AND INVESTIGATE COMPLAINTS REGARDING THE CONDITION, OPERA-
9 TION AND QUALITY OF CARE OF LICENSED ASSISTED LIVING RESIDENCES.

10 S 4663. PENALTIES AND ENFORCEMENT. 1. ANY PERSON WHO VIOLATES ANY
11 PROVISION OF THIS ARTICLE, ANY RULE OR REGULATION PROMULGATED BY THE
12 DEPARTMENT, OR THE TERMS OR CONDITIONS OF ANY ORDER OR PERMIT ISSUED BY

13 THE DEPARTMENT PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO THE CIVIL
14 AND, IF APPLICABLE, CRIMINAL PENALTIES AUTHORIZED UNDER SECTIONS TWELVE
15 AND TWELVE-B OF THIS CHAPTER FOR SUCH VIOLATION.

16 2. (A) THE LICENSE OF ANY OPERATOR MAY BE REVOKED, SUSPENDED, OR
17 LIMITED UPON A DETERMINATION BY THE COMMISSIONER THAT THE OPERATOR HAS
18 FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE. NO SUCH LICENSE
19 SHALL BE REVOKED, SUSPENDED OR LIMITED WITHOUT A HEARING HELD IN ACCORD-
20 ANCE WITH PROCEDURES ESTABLISHED BY DEPARTMENT REGULATIONS, WHICH PROCE-
21 DURES SHALL REQUIRE THAT NOTICE OF THE TIME AND PLACE OF THE HEARING,
22 AND NOTICE OF THE CHARGES, SHALL BE SERVED IN PERSON OR BY CERTIFIED
23 MAIL ADDRESSED TO THE FACILITY AT LEAST FIFTEEN DAYS PRIOR TO THE DATE
24 OF HEARING. A WRITTEN ANSWER TO THE CHARGES MAY BE FILED WITH THE
25 DEPARTMENT NOT LESS THAN TEN BUSINESS DAYS PRIOR TO THE DATE OF THE
26 HEARING. THE LICENSE OF AN OPERATOR MAY, NEVERTHELESS, BE SUSPENDED OR
27 LIMITED WITHOUT A HEARING FOR A PERIOD NOT IN EXCESS OF SIXTY DAYS, UPON
28 WRITTEN NOTICE TO THE FACILITY FOLLOWING A FINDING BY THE DEPARTMENT
29 THAT THE PUBLIC HEALTH, OR AN INDIVIDUAL'S HEALTH, SAFETY OR WELFARE,
30 ARE IN IMMINENT DANGER.

31 (B) THE SUPREME COURT MAY GRANT EQUITABLE RELIEF AGAINST VIOLATIONS OR
32 THREATENED VIOLATIONS OF THIS ARTICLE OR THE REGULATIONS OF THE DEPART-
33 MENT BY AN OPERATOR OR RESIDENCE SUBJECT TO THE INSPECTION AND SUPER-
34 VISION OF THE DEPARTMENT. THE ATTORNEY GENERAL MAY SEEK SUCH EQUITABLE
35 RELIEF, IN THE NAME OF THE PEOPLE UPON THE REQUEST OF THE DEPARTMENT.
36 SERVICE IN SUCH AN ACTION SHALL STATE THE NATURE OF THE VIOLATION AND
37 SHALL BE ACCOMPLISHED IN THE MANNER PRESCRIBED BY THE CIVIL PRACTICE LAW
38 AND RULES; PROVIDED, HOWEVER, THAT AN EX PARTE ORDER FOR EQUITABLE
39 RELIEF MAY ISSUE, NOTWITHSTANDING THE CIVIL PRACTICE LAW AND RULES, IF
40 THE COURT FINDS, ON MOTION AND AFFIDAVIT, THAT SUCH VIOLATION MAY
41 REASONABLY BE EXPECTED TO RESULT IN IMMINENT DANGER TO THE PUBLIC HEALTH
42 OR TO THE HEALTH, SAFETY OR WELFARE OF ANY INDIVIDUAL IN A RESIDENCE
43 SUBJECT TO THE DEPARTMENT'S INSPECTION AND SUPERVISION. THE COURT, AFTER
44 A HEARING, MAY MAKE AN ORDER GRANTING SUCH EQUITABLE RELIEF AS IT MAY
45 DEEM NECESSARY, INCLUDING, BUT NOT LIMITED TO, A PRELIMINARY INJUNCTION
46 OR A PERMANENT INJUNCTION, ENJOINING A RESIDENCE FROM ADMITTING NEW
47 RESIDENTS OR DIRECTING THE DEPARTMENT AND SUCH RESIDENCE TO ARRANGE FOR
48 THE TRANSFER OF RESIDENTS TO OTHER PLACEMENTS, OR APPOINTMENT OF A
49 TEMPORARY OR PERMANENT RECEIVER FOR THE PROTECTION OF THE PUBLIC HEALTH
50 OR THE HEALTH, SAFETY AND WELFARE OF ANY INDIVIDUAL IN SUCH RESIDENCE.
51 THE PEOPLE SHALL NOT BE REQUIRED TO POST SECURITY OR BOND.

52 (C) ANY PERSON THAT IS A CONTROLLING PERSON OR CONTROLLING ENTITY OF
53 AN OPERATOR OR OWNER OF AN ASSISTED LIVING RESIDENCE THAT IS FOUND TO BE
54 LIABLE UNDER ANY PROVISION OF THIS ARTICLE TO ANY PERSON OR CLASS OF
55 PERSONS FOR DAMAGES OR TO THE STATE FOR ANY CIVIL FINE, PENALTY OR
56 ASSESSMENT OF DAMAGES, SHALL ALSO BE LIABLE, JOINTLY AND SEVERALLY, WITH

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1 AND TO THE SAME EXTENT AS THE OPERATOR OR OWNER, TO SUCH PERSON OR CLASS
2 OF PERSONS FOR DAMAGES OR TO THE STATE FOR ANY SUCH CIVIL FINE, PENALTY
3 OR ASSESSMENT OF DAMAGES.

4 (D) UPON A DETERMINATION BY THE COMMISSIONER THAT THERE EXIST OPERA-
5 TIONAL DEFICIENCIES IN AN ASSISTED LIVING RESIDENCE WHICH SHOW: (I) A
6 CONDITION OR CONDITIONS IN SUBSTANTIAL VIOLATION OF THE STANDARDS FOR
7 HEALTH, SAFETY, WELFARE OR RESIDENT CARE ESTABLISHED UNDER APPLICABLE
8 LAW, RULES OR REGULATIONS; OR (II) ANY OTHER CONDITIONS DANGEROUS TO
9 LIFE, HEALTH OR SAFETY; OR (III) THAT THERE EXISTS IN THE RESIDENCE A
10 PATTERN OR PRACTICE OF HABITUAL VIOLATION OF THE STANDARDS OF HEALTH,
11 SAFETY, WELFARE OR RESIDENT CARE ESTABLISHED IN APPLICABLE LAW, RULES OR
12 REGULATIONS, THE COMMISSIONER SHALL TAKE THE ACTIONS PRESCRIBED BY PARA-

13 GRAPH (A) OF THIS SUBDIVISION, TO REVOKE OR SUSPEND THE LICENSE OF THE
14 RESIDENCE WHICH WAS THE SUBJECT OF SUCH FINDING AND, WHERE THE COMMIS-
15 SIONER DEEMS IT TO BE IN THE PUBLIC INTEREST, THE COMMISSIONER MAY,
16 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, APPOINT A TEMPORARY OPERATOR
17 TO OPERATE THE FACILITY DURING THE TERM OF THE PENDENCY OF THE ADMINIS-
18 TRATIVE PROCEEDING PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION TO
19 REVOKE OR SUSPEND THE LICENSE, AND, IF THE LICENSE IS REVOKED OR
20 SUSPENDED, DURING THE PENDENCY OF A PROCEEDING PURSUANT TO PARAGRAPH (B)
21 OF THIS SUBDIVISION OR A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF
22 THE CIVIL PRACTICE LAW AND RULES. ANY SUCH DETERMINATION TO APPOINT A
23 TEMPORARY OPERATOR MAY SPECIFY CONDITIONS INCLUDING, BUT NOT LIMITED TO,
24 THE IMMEDIATE TRANSFER OF ALL RECORDS, FACILITY BUSINESS RECORDS AND ANY
25 OTHER RECORDS RELATED TO THE OPERATION OF THE FACILITY TO THE TEMPORARY
26 OPERATOR, AND THE REQUIREMENT THAT THE OPERATOR PROVIDE THE TEMPORARY
27 OPERATOR WITH ANY FUNDS RECEIVED BY THE OPERATOR FOR THE OPERATION OF
28 THE FACILITY.

29 3. (A) WHERE THE ENTITY SATISFACTORILY DEMONSTRATES THAT IT HAS RECTI-
30 FIED THE VIOLATION WITHIN THIRTY DAYS OF RECEIVING NOTICE OF SUCH
31 VIOLATION OR HAS SUBMITTED WITHIN THIRTY DAYS AN ACCEPTABLE PLAN FOR
32 RECTIFICATION AND WAS RECTIFYING THE VIOLATIONS IN ACCORDANCE WITH THE
33 STEPS AND WITHIN THE ADDITIONAL PERIODS OF TIME AS ACCEPTED BY THE
34 DEPARTMENT IN SUCH PLAN, THE DEPARTMENT SHALL WAIVE ANY AND ALL CIVIL
35 PENALTIES IMPOSED FOR SUCH VIOLATION. PROVIDED, HOWEVER, SUCH CIVIL
36 PENALTY SHALL NOT BE WAIVED IF THE ENTITY HAS VIOLATED THE SAME STATUTO-
37 RY OR REGULATORY PROVISION MORE THAN ONCE WITHIN A SIX MONTH PERIOD.

38 (B) RECTIFICATION SHALL NOT PRECLUDE THE ASSESSMENT OF A PENALTY IF
39 THE DEPARTMENT ESTABLISHES AT A HEARING THAT A PARTICULAR VIOLATION,
40 ALTHOUGH CORRECTED, ENDANGERED OR RESULTED IN HARM TO ANY RESIDENT AS
41 THE RESULT OF:

42 (I) THE TOTAL OR SUBSTANTIAL FAILURE OF THE RESIDENCE`S FIRE DETECTION
43 OR PREVENTION SYSTEMS, OR EMERGENCY EVACUATION PROCEDURES PRESCRIBED BY
44 DEPARTMENT SAFETY STANDARD REGULATIONS;

45 (II) THE FAILURE OF THE OPERATOR TO TAKE ACTIONS AS REQUIRED BY
46 DEPARTMENT REGULATIONS IN THE EVENT OF A RESIDENT`S ILLNESS OR ACCIDENT;
47 OR

48 (III) THE FAILURE TO PROVIDE A HABITABLE ENVIRONMENT, INCLUDING BUT
49 NOT LIMITED TO ADEQUATE SANITATION.

50 4. NO CIVIL PENALTY SHALL BE ASSESSED WITHOUT A HEARING HELD IN
51 ACCORDANCE WITH SECTION TWELVE-A OF THIS CHAPTER.

52 5. THIS SECTION SHALL NOT RESTRICT THE AVAILABILITY OF POWERS OTHER-
53 WISE AVAILABLE TO THE COMMISSIONER UNDER THE PROVISIONS OF THIS CHAPTER
54 AND UNDER THE SOCIAL SERVICES LAW.

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1 S 2. Subparagraph (i) of paragraph (c) of subdivision 3 of section
2 544-a of the executive law, as amended by chapter 345 of the laws of
3 1996, is amended to read as follows:

4 (i) identify, investigate and resolve complaints that are made by, or
5 on behalf of, long term care residents AND ASSISTED LIVING RESIDENTS in
6 this state and that relate to actions, inactions or decisions that may
7 adversely affect the health, safety and welfare or rights of such resi-
8 dents; provided, however, that the state ombudsman shall immediately
9 refer to the appropriate investigatory agency information obtained
10 during the investigation of a complaint which suggests the possible
11 occurrence of physical abuse, mistreatment or neglect or Medicaid fraud,
12 in accordance with procedures established by the state ombudsman. Such
13 procedures shall include, but not be limited to, the reporting to the
14 appropriate investigatory agency any reasonable information which

15 suggests the possible occurrence of physical abuse, mistreatment or
16 neglect as defined in section twenty-eight hundred three-d of the public
17 health law. Nothing in this section shall be construed as authorizing
18 the state ombudsman to impose a resolution unacceptable to either party
19 involved in a complaint or to assume powers delegated to the commission-
20 er of health or the department of health pursuant to article twenty-
21 eight of the public health law or to the commissioner of {social
22 services} HEALTH or the department of {social services} HEALTH pursuant
23 to the social services law; nor does it authorize the state ombudsman to
24 investigate final administrative determinations made pursuant to law by
25 such {commissioners} COMMISSIONER if such decisions become the subject
26 of complaints to the state ombudsman;

27 S 3. The state finance law is amended by adding a new section 99-j to
28 read as follows:

29 S 99-J. ASSISTED LIVING RESIDENCE QUALITY OVERSIGHT FUND. 1. THERE IS
30 HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE
31 COMMISSIONER OF HEALTH A SPECIAL FUND TO BE KNOWN AS THE "ASSISTED
32 LIVING RESIDENCE QUALITY OVERSIGHT FUND".

33 2. SUCH FUND SHALL CONSIST OF ALL MONEYS COLLECTED BY THE DEPARTMENT
34 OF HEALTH PURSUANT TO SECTIONS FORTY-SIX HUNDRED FIFTY-TWO AND FORTY-SIX
35 HUNDRED SIXTY-THREE OF THE PUBLIC HEALTH LAW. ANY INTEREST EARNED BY THE
36 INVESTMENT OF MONEYS IN SUCH FUND SHALL BE ADDED TO SUCH FUND, BECOME A
37 PART OF SUCH FUND, AND BE USED FOR THE PURPOSE OF SUCH FUND.

38 3. MONEYS OF SUCH FUND SHALL BE AVAILABLE TO THE DEPARTMENT OF HEALTH
39 FOR THE PURPOSE OF CARRYING OUT THE PROVISIONS OF ARTICLE FORTY-SIX-A OF
40 THE PUBLIC HEALTH LAW. ADDITIONALLY, PURSUANT TO A MEMORANDUM OF UNDER-
41 STANDING ENTERED INTO BY THE COMMISSIONER OF HEALTH AND THE DIRECTOR OF
42 THE OFFICE FOR THE AGING, A PORTION OF SUCH MONEYS SHALL BE TRANSFERRED
43 TO THE LONG TERM CARE OMBUDSMAN PROGRAM FOR THE PURPOSE OF CARRYING OUT
44 THE PROVISIONS OF ARTICLE FORTY-SIX-A OF THE PUBLIC HEALTH LAW. ADDI-
45 TIONALLY, TEN PERCENT OF THE MONEYS IN SUCH FUND SHALL BE UTILIZED BY
46 THE DEPARTMENT OF HEALTH TO PROVIDE FINANCIAL ENHANCEMENTS TO ASSISTED
47 LIVING RESIDENCES THAT ARE NOT IN VIOLATION OF ANY RULES OR REGULATIONS
48 PROMULGATED PURSUANT TO ARTICLE FORTY-SIX-A OF THE PUBLIC HEALTH LAW AND
49 IN WHICH NOT LESS THAN TEN PERCENT OF THE RESIDENT POPULATION IS PAYING
50 ITS ASSISTED LIVING EXPENSES VIA SUPPLEMENTAL SECURITY INCOME.

51 4. THE MONEYS OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT
52 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER
53 OF HEALTH.

54 S 4. The department of health shall provide the governor, the tempo-
55 rary president of the senate, the speaker of the assembly, and the
56 chairs of the aging committees in the senate and the assembly with a

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1 report detailing the licensing of assisted living residences no later
2 than the last day of the thirtieth month commencing after the date this
3 act shall have become law. Such report shall include the name and
4 location of all licensed assisted living residences, the total number of
5 licensed assisted living residence beds, the total number of licensed
6 assisted living residence beds that are also licensed as adult home or
7 enriched housing beds, the total licensure fees collected pursuant to
8 article 46-A of the public health law, and a list of funds or property
9 held by all assisted living residences.

10 S 5. Any entity which qualifies as an assisted living residence pursu-
11 ant to subdivision 1 of section 4651 of the public health law and oper-
12 ating as an assisted living residence on or before the effective date of
13 this act shall within 18 months of such effective date, receive a
14 license to operate an assisted living residence from the department of

15 health pursuant to section 4652 of the public health law and shall be
16 required to comply with the provisions of article 46-A of such law with-
17 in such 18 month period.

18 S 6. This act shall take effect on the one hundred eightieth day after
19 it shall have become a law; provided, however, that effective immediate-
20 ly, the addition, amendment and/or repeal of any rule or regulation
21 necessary for the implementation of this act on its effective date is
22 authorized and directed to be made and completed on or before such date.

POLICY CHANGE CATEGORY

OFFICE FOR THE AGING

Third Party Notification for Health Insurance

PROPOSAL

Support legislation that would require health insurance companies to allow senior citizens to designate a third party for notification purposes.

JUSTIFICATION

By allowing an insured to designate a third party to receive copies of premium notices or notices of cancellation, the elderly insured has extra protection in place in the event of misplaced premium notices or in the event the insured cannot handle financial matters due to an illness.

FISCAL IMPACT

This legislation would provide protection for the elderly without cost to county and state government.

BACKGROUND & STATISTICS

Seniors currently are protected by third party notification laws for life, auto and homeowners insurance. However, there is no third party notification law in place for health insurance, which could put their coverage in jeopardy, in the event of an illness that prevents them from handling their financial affairs.

LEGISLATIVE HISTORY

Legislation on this issue has been introduced by New York State Senator William Stachowski (S1167) and Assemblyman Brian Higgin (A2084).

2003-2004 Regular Sessions

S E N A T E - A S S E M B L Y

January 28, 2003

IN SENATE -- Introduced by Sens. STACHOWSKI, RATH, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

IN ASSEMBLY -- Introduced by M. of A. HIGGINS -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to third party notification of the renewal, modification, or cancellation of a senior citizen's health insurance policy

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (e) of section 3111 of the insurance law is
2 relettered subsection (f) and a new subsection (e) is added to read as
3 follows:
4 (E) EVERY INSURER THAT HAS IN FORCE ANY POLICY OF INSURANCE SUBJECT TO
5 THE PROVISIONS OF ARTICLE THIRTY-TWO OR FORTY-THREE OF THIS CHAPTER
6 SHALL PERMIT SENIOR CITIZEN INSURED TO DESIGNATE A THIRD PARTY TO WHOM
7 THE INSURER SHALL TRANSMIT NOTICES OF CANCELLATION, NONRENEWAL, MODIFI-
8 CATION, NON-PAYMENT, AND CONDITIONAL RENEWAL. THE SENIOR CITIZEN INSURED
9 SHALL NOTIFY THE INSURER THAT A THIRD PARTY HAS BEEN SO DESIGNATED. SUCH
10 NOTIFICATION SHALL BE DELIVERED TO THE INSURER BY CERTIFIED MAIL, RETURN
11 RECEIPT REQUESTED, AND SHALL BE EFFECTIVE NOT LATER THAN TEN BUSINESS
12 DAYS FROM THE DATE OF RECEIPT BY THE INSURER. THE NOTIFICATION MUST
13 CONTAIN, IN WRITING, AN ACCEPTANCE BY THE THIRD PARTY DESIGNEE TO
14 RECEIVE SUCH NOTICES FROM THE INSURER. SHOULD THE THIRD PARTY DESIGNEE
15 DESIRE TO TERMINATE HIS OR HER STATUS AS A THIRD PARTY DESIGNEE, SUCH
16 DESIGNEE SHALL PROVIDE WRITTEN NOTICE TO BOTH THE INSURER AND THE SENIOR
17 CITIZEN INSURED. SHOULD THE SENIOR CITIZEN INSURED DESIRE TO TERMINATE
18 THE THIRD PARTY DESIGNATION, THE INSURED SHALL PROVIDE WRITTEN NOTICE TO
19 THE INSURER. THE TRANSMISSION TO THE THIRD PARTY DESIGNEE OF ANY NOTICE
20 SHALL BE IN ADDITION TO A COPY OF SUCH DOCUMENT TRANSMITTED TO THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 SENIOR CITIZEN INSURED AND WHEN A THIRD PARTY IS SO DESIGNATED ALL SUCH
2 NOTICES SHALL BE MAILED IN AN ENVELOPE CLEARLY MARKED ON ITS FACE WITH
3 THE FOLLOWING: "IMPORTANT INSURANCE POLICY INFORMATION: OPEN IMMEDIATE-
4 LY". DESIGNATION AS A THIRD PARTY SHALL NOT CONSTITUTE ACCEPTANCE OF ANY
5 LIABILITY ON THE THIRD PARTY FOR SERVICES PROVIDED TO SUCH SENIOR CITI-
6 ZEN. ON JANUARY FIRST OF EACH YEAR, THE INSURER SHALL NOTIFY ITS SENIOR
7 CITIZEN INSURED IN WRITING OF THE AVAILABILITY OF THE THIRD PARTY

8 DESIGNEE NOTICE PROCEDURE AND PROVIDE INFORMATION ON HOW THE INSURED CAN
9 COMMENCE THIS PROCEDURE; HOWEVER, SUCH NOTICE NEED NOT BE PROVIDED ONCE
10 A SENIOR CITIZEN HAS MADE A DESIGNATION.
11 S 2. This act shall take effect on the first of January next succeed-
12 ing the date on which it shall have become a law.

POLICY CHANGE CATEGORY

DISTRICT ATTORNEY

Driving While Intoxicated

PROPOSAL

Urge New York State to amend various provisions of the Penal Law to require that an offender who is Driving While Intoxicated (DWI) and who is the “proximate cause” of an accident resulting in injury or death be given enhanced penalties.

JUSTIFICATION

In order to more appropriately punish an offender who is driving while intoxicated and is the “proximate cause” of an accident resulting in injury or death, the law should be amended. This legislation is required to overcome a string of court decisions over the years that mandate, in addition to Driving While Intoxicated, additional evidence of recklessness or negligence to support charges of Manslaughter, Criminal Negligence, Vehicular Manslaughter or Vehicular Assault in cases of death or serious physical injury.

FISCAL IMPACT

None.

BACKGROUND & STATISTICS

Listed above.

LEGISLATIVE HISTORY

Legislation in the State Senate that has not been successful.

POLICY CHANGE CATEGORY

DISTRICT ATTORNEY

Felony Endangering the Welfare of a Child

PROPOSAL

Urge New York State to amend State law to make it a felony to endanger the welfare of a child where the conduct involves drunk driving coupled with an accident resulting in injury to the child.

JUSTIFICATION

Under existing State law endangering the welfare of a child is only a misdemeanor, even in cases when driving while intoxicated results in an accident causing injury to the child. The law must be changed in order to allow more appropriate charges to be filed against criminals committing these acts. Increasing the severity of the charges will also increase the severity of the punishment and hopefully act as more of a deterrent than is currently the case and make it easier to prosecute serious acts of abuse against children.

FISCAL IMPACT

None.

BACKGROUND & STATISTICS

Listed above.

LEGISLATIVE HISTORY

None.

POLICY CHANGE CATEGORY

DISTRICT ATTORNEY

Mandatory Reporting

PROPOSAL

Urge New York State to amend Mandatory Reporting Law by broadening the list of persons responsible to report child abuse. Mandatory reporters should include all segments of society who interact regularly with children i.e. clergy, healthcare practitioners, educational professionals, daycare workers and coaches. In addition, the State law should be amended to require that notification of the abuse should come to law enforcement rather than Child Protective Services (CPS) to ensure that every necessary action is taken to prevent future abuse and to address and punish abuses that have taken place. In addition, it is critical that an amendment to the law include a provision which requires that an agency in which abuse occurs be required to report that abuse to law enforcement and wait before undertaking any kind of internal investigation.

JUSTIFICATION

Current reporting requirements for those who abuse children are restricted to only a few groups of people i.e. parents, guardians and caretakers. However, recent events in the news have highlighted the fact that other people in trusted positions have often abused children as well. It is important that the reporting law be broadened to incorporate other groups of people that regularly interact with children.

Furthermore, it is imperative that law enforcement be informed of abuses that have taken place in a more direct way. Notices need to be given directly to law enforcement

FISCAL IMPACT

None.

BACKGROUND & STATISTICS

Listed above.

LEGISLATIVE HISTORY

Previous bills have been introduced in the Assembly but have not been successful.

POLICY CHANGE CATEGORY

DISTRICT ATTORNEY

Statute of Limitations

PROPOSAL

Urge New York State to amend State law to extend the statute of limitations in child assault cases from five to fifteen years. The Suffolk County Legislature passed a Memorializing Resolution 25-2002 requesting that the State amend various portions of the Penal Law in order to lengthen the statute of limitations for any misdemeanor or felony sex offense violation involving an individual under the age of eighteen by ten years.

JUSTIFICATION

A recent series of public disclosures involving clergy sex abuses cases in the Roman Catholic Church from Boston to Los Angeles, including incidents in New York and specifically on Long Island, have brought the nation's attention to the fact that there have been many sexual abuse cases. These public disclosures have also brought attention to the fact that sexual abuse cases have a statute of limitations that range from two years for misdemeanor violations and five years for non-class A felony violations.

The failure of the clergy to report suspected sexual child abuse to authorities even though virtually every professional who works with children such as doctors, nurses, teachers, day care workers, and social workers are required to report suspected child abuse to civil authorities, has caused many children to be victimized at the hands of the clergy over decades, the full import of which is only now beginning to be recognized. It is vitally important to lengthen the statute of limitations because in many cases it takes years for the victim to come forward to report the abuse.

FISCAL IMPACT

None.

BACKGROUND & STATISTICS

Listed above.

LEGISLATIVE HISTORY

None.

POLICY CHANGE CATEGORY

CHIEF ENVIRONMENTALIST

Energy Efficiency Standards Act of 2003

PROPOSAL

Support the passage of New York State Assembly Bill #8951, the Appliance and Equipment Energy Efficiency Standards Act of 2003 to require the NYS Energy and Research Authority to establish state energy standards on a range of commercial and residential products to complement federal standards. The products covered by this bill would include ceiling fans, fan light kits, commercial clothes washers, commercial refrigerators and freezers, illuminated exit signs, large packaged air conditioning equipment, pedestrian and vehicular traffic signals, building transformers, lighting fixtures, and unit heaters.

This bill, which has been introduced in a number of northeastern states and has just become law in Maryland (over the veto of the Governor), was developed by the Northeast States Energy Efficiency Standards Project, a coalition of consumer, environmental, and energy efficiency groups. The performance standards will prescribe the minimum energy efficiency levels for new products sold or offered for sale in New York State

JUSTIFICATION

Energy costs are extremely high on Long Island and there is a growing need for additional sources of production. The establishment of energy efficiency standards, which can help keep costs down for consumers and businesses and help reduce energy use, are among the lowest-cost, highest-benefit energy policies that the state and/or federal government can adopt. Adopting energy efficiency standards can save consumers and businesses money and provide significant energy system and environmental benefits by limiting the sale and use of products and equipment that waste energy

An analysis has been completed by the Northeast Energy Efficiency Partnership that suggests that implementing efficiency standards for these products would result in substantial savings for consumers, provide substantial environmental benefits including reductions in carbon discharges, and help reduce electric power needs in peak periods. Action taken by New York will enhance energy efficiency, stabilize energy prices, lower electricity demand, and reduce emissions.

FISCAL IMPACT

Passage of this legislation and implementation by NYSERDA would result in reduced costs for residents, businesses and the government, while reducing power needs for the region, and improving the quality of the environment.

BACKGROUND & STATISTICS

New York was one of the first states to initiate energy efficiency standards in the 1970's. Federal energy efficiency standards were established in 1987. With the federal government not having set any new efficiency standards since 1992, states are in a position to take the lead on this important issue.

LEGISLATIVE HISTORY

This legislation is currently before committee in both houses of the New York State Senate and Assembly. NYS Senator James Wright and Assemblyman Paul Tonko are co-sponsors of the legislation.

2003-2004 Regular Sessions

I N A S S E M B L Y

June 12, 2003

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Tonko) --
 (at request of the Energy Research Development Authority) -- read once
 and referred to the Committee on Energy

AN ACT to amend the energy law, in relation to energy efficient appli-
 ances and establishing the appliance and equipment energy efficiency
 standards act of 2003

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
 BLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
 2 the "appliance and equipment energy efficiency standards act of 2003".
 3 S 2. The energy law is amended by adding a new article 16 to read as
 4 follows:

ARTICLE 16

APPLIANCE AND EQUIPMENT ENERGY EFFICIENCY STANDARDS

6 SECTION 16-102. DEFINITIONS.

8 16-104. APPLICABILITY, CONDUCT PROHIBITED.

9 16-106. ENERGY EFFICIENT APPLIANCES AND EQUIPMENT REGULATIONS.

10 16-108. VIOLATIONS, CIVIL LIABILITY.

11 S 16-102. DEFINITIONS. WHEN USED IN THIS ARTICLE: 1. "AUTHORITY" MEANS
 12 THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.

13 2. "CEILING FAN" MEANS A NON-PORTABLE DEVICE THAT IS SUSPENDED FROM A
 14 CEILING FOR CIRCULATING AIR VIA THE ROTATION OF FAN BLADES.

15 3. "CEILING FAN LIGHT KIT" MEANS THE EQUIPMENT USED TO PROVIDE LIGHT
 16 FROM A CEILING FAN. THIS EQUIPMENT MAY BE PART OF THE UNIT SUCH THAT THE
 17 CEILING FAN LIGHT KIT IS HARDWIRED TO THE CEILING FAN, OR ATTACHABLE
 18 SUCH THAT THE CEILING FAN LIGHT KIT IS NOT, AT THE TIME OF SALE, PHYS-
 19 ICALLY ATTACHED TO THE FAN. ATTACHABLE CEILING FAN LIGHT KITS MAY BE
 20 INCLUDED INSIDE THE CEILING FAN PACKAGE AT THE TIME OF SALE OR SOLD
 21 SEPARATELY FOR SUBSEQUENT ATTACHMENT TO THE FAN.

22 4. "COMMERCIAL CLOTHES WASHER" MEANS A SOFT MOUNT FRONT-LOADING OR
 23 SOFT MOUNT TOP-LOADING CLOTHES WASHER THAT IS DESIGNED FOR USE IN (A)

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
 { } is old law to be omitted.

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1 APPLICATIONS WHERE THE OCCUPANTS OF MORE THAN ONE HOUSEHOLD WILL BE
 2 USING IT, SUCH AS IN MULTI-FAMILY HOUSING COMMON AREAS AND COIN LAUN-
 3 DRIES; OR (B) OTHER COMMERCIAL APPLICATIONS, IF THE CLOTHES CONTAINER
 4 COMPARTMENT IS NO GREATER THAN 3.5 CUBIC FEET FOR HORIZONTAL-AXIS
 5 CLOTHES WASHERS, OR NO GREATER THAN 4.0 CUBIC FEET FOR VERTICAL-AXIS
 6 CLOTHES WASHERS.

7 5. "COMMERCIAL REFRIGERATORS AND FREEZERS" MEANS REACH-IN CABINET,
 8 PASS-THROUGH CABINET, ROLL-IN CABINET AND ROLL-THROUGH CABINET MODELS OF
 9 REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS THAT HAVE LESS THAN

10 EIGHTY-FIVE CUBIC FEET OF CAPACITY. COMMERCIAL REFRIGERATORS AND FREEZ-
11 ERS DO NOT INCLUDE WALK-IN MODELS OR FEDERALLY REGULATED PRODUCTS UNDER
12 THE NATIONAL APPLIANCE ENERGY CONSERVATION ACT OF 1987 (PUBLIC LAW 100-
13 12).

14 6. "ENERGY EFFICIENCY PERFORMANCE STANDARDS" MEANS PERFORMANCE STAND-
15 ARDS WHICH PRESCRIBE A MINIMUM LEVEL OF ENERGY EFFICIENCY DETERMINED IN
16 ACCORDANCE WITH TEST PROCEDURES PRESCRIBED BY THE SECRETARY IN CONSULTA-
17 TION WITH THE AUTHORITY.

18 7. "ILLUMINATED EXIT SIGN" MEANS AN INTERNALLY-ILLUMINATED SIGN THAT
19 IS DESIGNED TO BE PERMANENTLY FIXED IN PLACE AND USED TO IDENTIFY AN
20 EXIT; A LIGHT SOURCE ILLUMINATES THE SIGN OR LETTERS FROM WITHIN, AND
21 THE BACKGROUND OF THE EXIT SIGN IS NOT TRANSPARENT.

22 8. "LARGE PACKAGED AIR-CONDITIONING EQUIPMENT" MEANS PACKAGED AIR-CON-
23 DITIONING EQUIPMENT HAVING TWENTY TONS OR MORE OF COOLING CAPACITY THAT
24 IS BUILT AS A PACKAGE AND SHIPPED AS A WHOLE TO END-USER SITES.

25 9. "PEDESTRIAN TRAFFIC SIGNAL MODULE" MEANS AN ELECTRICALLY OPERATED
26 TRAFFIC CONTROL DEVICE COMPOSED OF ONE OR MORE INDICATIONS WHICH IS
27 ERECTED FOR THE EXCLUSIVE PURPOSE OF DIRECTING PEDESTRIAN TRAFFIC AT
28 SIGNALIZED LOCATIONS. IT CONSISTS OF A LIGHT SOURCE, LENS, AND ALL PARTS
29 NECESSARY FOR OPERATION.

30 10. "PERSON" MEANS ANY INDIVIDUAL, PUBLIC OR PRIVATE CORPORATION,
31 POLITICAL SUBDIVISION, GOVERNMENTAL AGENCY, DEPARTMENT OR BUREAU OF THE
32 STATE, MUNICIPALITY, INDUSTRY, COPARTNERSHIP, ASSOCIATION, FIRM, TRUST,
33 ESTATE OR ANY OTHER LEGAL ENTITY WHATSOEVER.

34 11. "SECRETARY" MEANS THE SECRETARY OF STATE.

35 12. "SET-TOP BOX" MEANS AN ELECTRONIC PRODUCT ENCASED IN A SINGLE
36 HOUSING DESIGNED TO RECEIVE, SEND, PROCESS, TRANSLATE AND/OR RECORD
37 DIGITAL SIGNALS THAT ARE THEN SENT TO A TELEVISION OR SIMILAR DISPLAY
38 DEVICE FOR VIEWING. SET-TOP BOXES DO NOT INCLUDE INTEGRATED DEVICES THAT
39 HAVE THE CORE FUNCTION OF A SATELLITE TELEVISION SET-TOP BOX, DIGITAL
40 CABLE TELEVISION SET-TOP BOX, WIRELESS TELEVISION SET-TOP BOX OR
41 PERSONAL VIDEO RECORDER, PLUS ONE OR MORE ADDITIONAL FUNCTIONALITIES
42 SUCH AS AN INTERNET ACCESS DEVICE OR VIDEO GAME CONSOLE.

43 13. "TORCHIERE LIGHTING FIXTURE" MEANS A PORTABLE ELECTRIC LIGHTING
44 FIXTURE WITH A REFLECTIVE BOWL THAT IS DESIGNED TO DIRECT LIGHT UPWARD
45 ONTO A CEILING SO AS TO PRODUCE INDIRECT ILLUMINATION ON THE SURFACES
46 BELOW.

47 14. "UNIT HEATER" MEANS A SELF-CONTAINED, AUTOMATICALLY-CONTROLLED,
48 VENTED FAN-TYPE SPACE HEATER THAT USES NATURAL GAS, PROPANE OR FUEL OIL
49 THAT IS DESIGNED TO BE INSTALLED WITHOUT DUCTS, WITHIN THE HEATED SPACE.
50 UNIT HEATERS INCLUDE AN APPARATUS OR APPLIANCE TO SUPPLY HEAT, AND A FAN
51 FOR CIRCULATING AIR OVER A HEAT EXCHANGE SURFACE, ALL ENCLOSED IN A
52 COMMON CASING.

53 15. "VEHICULAR TRAFFIC SIGNAL MODULE" MEANS AN ELECTRICALLY OPERATED
54 STANDARD 8-INCH (200MM) OR 12-INCH (300MM) ROUND TRAFFIC CONTROL DEVICE
55 COMPOSED OF ONE OR MORE INDICATIONS WHICH IS ERECTED FOR THE EXCLUSIVE
56 PURPOSE OF DIRECTING VEHICULAR TRAFFIC AT SIGNALIZED LOCATIONS. IT

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1 CONSISTS OF A LIGHT SOURCE, LENS, AND ALL PARTS NECESSARY FOR OPERATION.
2 IT COMMUNICATES TRAFFIC CONTROL MESSAGES THROUGH RED, AMBER AND GREEN
3 COLORS.

4 S 16-104. APPLICABILITY, CONDUCT PROHIBITED. 1. THE PROVISIONS OF THIS
5 ARTICLE APPLY TO THE TESTING, CERTIFICATION AND ENFORCEMENT OF EFFICIEN-
6 CY STANDARDS FOR THE FOLLOWING NEW PRODUCTS SOLD OR OFFERED FOR SALE IN
7 NEW YORK STATE: (A) CEILING FANS AND CEILING FAN LIGHT KITS; (B) COMMER-
8 CIAL CLOTHES WASHERS; (C) COMMERCIAL REFRIGERATORS AND FREEZERS; (D)
9 ILLUMINATED EXIT SIGNS; (E) LARGE PACKAGED AIR-CONDITIONING EQUIPMENT;

10 (F) PEDESTRIAN TRAFFIC SIGNAL MODULES; (G) SET-TOP BOXES; (H) TORCHIERE
11 LIGHTING FIXTURES; (I) UNIT HEATERS; (J) VEHICULAR TRAFFIC SIGNAL
12 MODULES; AND (K) SUCH OTHER PRODUCTS AS MAY BE DESIGNATED BY THE SECRE-
13 TARY, IN CONSULTATION WITH THE AUTHORITY, IN ACCORDANCE WITH SUBDIVISION
14 THREE OF SECTION 16-106 OF THIS ARTICLE.

15 2. THE PROVISIONS OF THIS ARTICLE DO NOT APPLY TO (A) NEW PRODUCTS
16 MANUFACTURED IN NEW YORK STATE AND SOLD OUTSIDE THE STATE, (B) NEW
17 PRODUCTS MANUFACTURED OUTSIDE THE STATE AND SOLD AT WHOLESALE INSIDE THE
18 STATE FOR FINAL RETAIL SALE AND INSTALLATION OUTSIDE THE STATE, (C) NEW
19 PRODUCTS INSTALLED IN MOBILE MANUFACTURED HOMES AT THE TIME OF
20 CONSTRUCTION, OR (D) NEW PRODUCTS DESIGNED EXPRESSLY FOR INSTALLATION
21 AND USE IN RECREATIONAL VEHICLES.

22 3. NO PERSON SHALL SELL OR OFFER FOR SALE IN NEW YORK STATE ANY OF THE
23 NEW PRODUCTS ENUMERATED IN SUBDIVISION ONE OF THIS SECTION UNLESS THE
24 NEW PRODUCT HAS BEEN CERTIFIED AS MEETING THE MINIMUM ENERGY EFFICIENCY
25 PERFORMANCE STANDARDS ADOPTED PURSUANT TO THIS ARTICLE.

26 S 16-106. ENERGY EFFICIENT APPLIANCES AND EQUIPMENT REGULATIONS. 1.
27 THE SECRETARY, IN CONSULTATION WITH THE AUTHORITY, MAY ADOPT REGULATIONS
28 IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE ESTABLISHING:

29 (A) ENERGY EFFICIENCY PERFORMANCE STANDARDS FOR THE NEW PRODUCTS SET
30 FORTH IN SUBDIVISION ONE OF SECTION 16-104 OF THIS ARTICLE;

31 (B) PROCEDURES FOR TESTING THE ENERGY EFFICIENCY OF THE NEW PRODUCTS
32 COVERED BY SUBDIVISION ONE OF SECTION 16-104 OF THIS ARTICLE;

33 (C) PROCEDURES FOR MANUFACTURERS TO CERTIFY THAT NEW PRODUCTS COVERED
34 UNDER THIS ARTICLE MEET THE ENERGY EFFICIENCY STANDARDS TO BE PROMULGAT-
35 ED UNDER THIS ARTICLE; AND

36 (D) SUCH FURTHER MATTERS AS ARE NECESSARY TO INSURE THE PROPER IMPLE-
37 MENTATION AND ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE.

38 2. SUBSEQUENT TO ADOPTING REGULATIONS, PURSUANT TO SUBDIVISION ONE OF
39 THIS SECTION, THE SECRETARY, IN CONSULTATION WITH THE AUTHORITY, MAY
40 AMEND SUCH REGULATIONS, INCLUDING INCREASING THE STRINGENCY OF THE ENER-
41 GY EFFICIENCY PERFORMANCE STANDARDS.

42 3. SUBSEQUENT TO ADOPTING REGULATIONS, PURSUANT TO SUBDIVISION ONE OF
43 THIS SECTION, THE SECRETARY, IN CONSULTATION WITH THE AUTHORITY, MAY
44 ESTABLISH ENERGY EFFICIENCY PERFORMANCE STANDARDS FOR PRODUCTS NOT
45 SPECIFICALLY LISTED IN SUBDIVISION ONE OF SECTION 16-104 OF THIS ARTICLE
46 UPON A DETERMINATION THAT: (A) SUCH PRODUCT OR PRODUCTS MEETING THE
47 PROPOSED STANDARDS ARE COMMERCIALY AVAILABLE; (B) THAT SAID STANDARDS
48 WOULD SERVE TO PROMOTE ENERGY CONSERVATION OR ENERGY LOAD MANAGEMENT IN
49 NEW YORK STATE; AND (C) SAID STANDARDS WOULD BE COST-EFFECTIVE ON A
50 LIFE-CYCLE COST BASIS.

51 S 16-108. VIOLATIONS, CIVIL LIABILITY. 1. ANY PERSON WHO FILES A FALSE
52 CERTIFICATION PURSUANT TO REGULATIONS PROMULGATED UNDER THIS ARTICLE
53 SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND
54 DOLLARS FOR EACH SUCH VIOLATION.

55 2. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF, OR WHO FAILS TO
56 PERFORM ANY DUTY IMPOSED BY THIS ARTICLE, OR WHO VIOLATES OR WHO FAILS

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1 TO COMPLY WITH ANY RULE OR REGULATION HEREINAFTER PROMULGATED PURSUANT
2 THERETO, SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN FIVE
3 HUNDRED DOLLARS FOR EACH SUCH VIOLATION AND AN ADDITIONAL CIVIL PENALTY
4 OF NOT MORE THAN ONE HUNDRED DOLLARS FOR EACH DAY DURING WHICH SUCH
5 VIOLATION CONTINUES, AND, IN ADDITION THERETO, SUCH PERSON MAY BE
6 ENJOINED FROM CONTINUING SUCH VIOLATION.

7 3. THE SECRETARY MAY CAUSE INVESTIGATIONS TO BE MADE OF COMPLAINTS
8 RECEIVED CONCERNING VIOLATIONS OF THIS ARTICLE AND SHALL, IF APPROPRI-
9 ATE, REPORT THE RESULTS OF SUCH INVESTIGATIONS TO THE ATTORNEY GENERAL.

10 THE ATTORNEY GENERAL MAY INSTITUTE PROCEEDINGS TO ENFORCE THE PROVISIONS
11 OF THIS ARTICLE.

12 4. AN ACTION OR CAUSE OF ACTION FOR THE RECOVERY OF A PENALTY UNDER
13 THIS SECTION MAY BE SETTLED OR COMPROMISED IN AN AMOUNT TO BE APPROVED
14 BY THE SECRETARY EITHER BEFORE OR AFTER PROCEEDINGS ARE BROUGHT TO
15 RECOVER SUCH PENALTIES AND PRIOR TO THE ENTRY FOR JUDGMENT THEREFOR.

16 S 3. Severability clause. If any clause, sentence, paragraph, subdivi-
17 sion, section or part of this act shall be adjudged by any court of
18 competent jurisdiction to be invalid, such judgment shall not affect,
19 impair, or invalidate the remainder thereof, but shall be confined in
20 its operation to the clause, sentence, paragraph, subdivision, section
21 or part thereof directly involved in the controversy in which such judg-
22 ment shall have been rendered. It is hereby declared to be the intent of
23 the legislature that this act would have been enacted even if such
24 invalid provisions had not been included herein.

25 S 4. This act shall take effect immediately.

POLICY CHANGE CATEGORY

ENERGY

Long Island Power Authority Board

PROPOSAL

The County should work with the State to increase citizen oversight of the Long Island Power Authority (LIPA). The County should pursue state legislation necessary to reinstate a Long Island Power Authority Board, whose members would be elected from ratepayer districts as the LIPA statute originally required.

JUSTIFICATION

The Suffolk County Legislature passed a Memorializing resolution 42-1998 in October, 1998 requesting that the State enact legislation to require that the governing body of the Long Island Power Authority be elected by the people of Long Island. This legislation is necessary to ensure that the future energy policy of Long Island be shaped by a LIPA Board of Directors that is elected and representative of the people of Long Island. Such a duly elected Board of Directors would ensure the development of a more competitive energy marketplace on Long Island that could significantly reduce electric rates.

FISCAL IMPACT

Possible reduced electric rates would produce savings for the County.

BACKGROUND & STATISTICS

The original legislation that created the Long Island Power Authority in 1986 required that there be an elected Board of Directors but Governor Cuomo never implemented that requirement. Furthermore, Governor Pataki had the elected Board requirement deleted from the LIPA statute. Currently the LIPA Board of Directors consists of 15 appointed individuals whose responsibility it is to shape the energy policy of Long Island. LIPA is a public authority that is not subject to oversight or scrutiny by any public body and is not accountable to the people of Long Island.

LEGISLATIVE HISTORY

At the time that the Suffolk Legislature passed their Sense resolution there was legislation being considered in the State Assembly, Assembly bill A1792. That legislation did not pass. However, there is currently legislation in the Assembly, A8005a which would increase LIPA oversight without changing the election of its Board of Directors.

POLICY CHANGE CATEGORY

ENERGY

Public Service Commission Review

PROPOSAL

The County should encourage enactment of New York State legislation which would amend the Long Island Power Authority (LIPA) statute to require full Public Service Commission (PSC) review, using evidentiary proceedings before electric rates are increased.

JUSTIFICATION

The Long Island Power Authority, as a public authority, is currently not subject to Public Service Commission review before it sets electric rates. The high price of electric rates on Long Island and the fact that LIPA is not subject to PSC review have led to concerns about LIPA oversight. Other utilities are subject to review by various regulatory agencies and this review ensures accountability and competitiveness in the best interest of the consumer. Providing greater oversight by requiring review by the Public Service Commission will improve the reliability and security of the electric delivery system, help LIPA realize savings for its ratepayers and retain existing commerce and trade.

FISCAL IMPACT

Indirect savings through more competitive rates.

BACKGROUND & STATISTICS

The Long Island Power Authority was formed by statute in 1986. The statute was changed by Governor Pataki in 1995. In 1998 LIPA took over the former Long Island Lighting Company.

LEGISLATIVE HISTORY

None.

POLICY CHANGE CATEGORY

CHIEF ENVIRONMENTALIST

Brownfields

PROPOSAL

Urge the Governor and the Legislature to appropriate additional funds through the budget process from the Brownfields Act of 2003 to Counties for the purpose of remediating brownfield sites they have come to own.

Funding should be provided: (1) through the 1996 Clean Water Clean Air Bond Act (approximately \$168 million) for (90%-10% grants to municipalities for sites they own; (2) \$15 million for the "Brownfield Opportunity Areas Planning Program," (3) \$2 million for the development of the Groundwater Protection Program, and additional funds that have been identified to move forward in addressing the issues identified with Brownfield properties and Superfund sites

JUSTIFICATION

By remediating and redeveloping Brownfield properties and refinancing the State Superfund Program, environmental threats will be removed from neighborhoods and communities, downtowns can be renewed, workforce housing can be built, jobs can be created, local economies can be revitalized, development of open space can be reduced, and effects of sprawl reduced.

The aid and incentives provided by the State will enable the County to: (1) address a site(s) under County ownership, (2) work in partnership with community groups and other levels of government to remediate and re-use these properties, (3) assist the Department of Environmental Conservation and Department of Health to develop the legally mandated Comprehensive Groundwater Management Plan.

FISCAL IMPACT

There is an anticipated savings in remediation costs to Suffolk County.

BACKGROUND

The remediation and redevelopment of Brownfield Properties throughout the County is important for protecting public health, improving the quality of the environment, and stimulating community investment, downtown revitalization and economic development.

The New York State Brownfields Act, enacted in 2003, provided for state funding for municipalities to assess and clean-up sites that they have come to own, tax incentives for individuals and companies to invest in brownfield properties, and grants for government and not-for-profit community-based partnerships to strategically plan for the redevelopment of Brownfields

POLICY CHANGE CATEGORY

CHIEF ENVIRONMENTALIST

Environmental Protection Fund

PROPOSAL

Urge the State Legislature to follow through on the Governor's promise to appropriate \$125 million to the Environmental Protection Fund (EPF) through the 04-05 budget process for the purpose of preserving open space, protecting water quality and reducing pollution. Additionally, the state should not transfer "general fund" items such as state agency staff and capital projects into the EPF without providing additional new funding.

JUSTIFICATION

For 10 years, the New York State Environmental Protection Fund (EPF)-- a dedicated trust fund -- has assisted local government in a number of important areas including, protecting water quality; preserving farmland, environmentally important open spaces, and historic properties; preventing pollution; and addressing the management of solid waste

The EPF, which receives the bulk of its funds through the state real Estate Transfer Tax is an important source of state assistance to the county and local governments. Over the past few years, there have been attempts to divert funds from the legally identified purposes and/or reduce the funding dedicated to the EPF below the annual revenues received.

FISCAL IMPACT

County funds are used to leverage state funds through the EPF for a number of environmental protection programs. If the state reduces the annual appropriation for the EPF or it is allowed to be used for purposes that are more appropriately funded through the general fund, it would reduce state dollars available to the county.

BACKGROUND

Although the state faces economic challenges, this is a dedicated fund that is based on a dedicated funding source, which was designed to fund projects aimed at improving the quality of our environment in good economic times as well as those that are more challenging. It is not time to reduce our commitment to clean water, clean air, open space and farmland protection, recycling, and public health initiatives; all of which are funded through the EPF.

LEGISLATIVE ACTION

No legisaltive action taken to date on this issue.

POLICY CHANGE CATEGORY

CHIEF ENVIRONMENTALIST

NYS Returnable Beverage Container Act

PROPOSAL

Support A.3922 DiNapoli/S.1696a LaValle-To expand the "Bottle Bill" to require a 5 cent deposit on all Beverages with the exception of liquor, wine, infant formula and milk, and to provide for the return of unclaimed deposits on beverage containers to the State for deposit into the Solid Waste Account of the Environmental Protection Fund to Fund improvements on recycling programs. "Expanded Bottle Bill" unclaimed Deposits would generate Approximately \$177 million annually for the public.

JUSTIFICATION

The bottle bill has been one of New York's most successful recycling initiatives. Not only has it reduced litter it has also reduced the burden of solid waste disposal that is shouldered by our municipalities. However, since enactment of the bottle bill in 1982, beverages such as bottled water, juices and teas have been introduced into the consumer stream and hence, the waste stream. It is time to update the bottle bill to include these new products.

FISCAL IMPACT

The Container Recycling Institute (CRI) estimates that unclaimed deposits in New York State total \$137 million and that under an expanded bottle bill there would be \$177 million in unclaimed deposits. These monies would be deposited in the Solid Waste Account of the Environmental Protection Fund and earmarked to pay for recycling efforts for the areas in which they originated.

BACKGROUND & STATISTICS

Right now the bottlers and distributors who initiate the deposit collection system enjoy a five-cent windfall for each container that is not returned. This bill would return those unclaimed deposits to the people of the State for the purpose of recycling. As municipalities received additional funding for recycling, it will bolster their efforts to ensure that curbside programs are effective.

LEGISLATIVE HISTORY

The Suffolk County Legislature passed a Memorializing Sense Resolution 25-2003 encouraging the amendment to the "bottle law." State legislation was introduced in the Assembly and Senate last year and now is referred to the Environmental Conservation committees in both the Assembly and Senate.

Introduced by Legislator Foley, Fisher, Cooper, Fields

**MEMORIALIZING RESOLUTION REQUESTING
STATE OF NEW YORK TO EXTEND BEVERAGE
CONTAINER DEPOSIT/REFUND LAW
(A.3922/S.1696)**

WHEREAS, under the New York State “Bottle Law”, enacted in 1982, merchants are required to collect a five-cent (.05) deposit on soft drinks, mineral water, beer, other malt beverages, and wine-cooler containers; and

WHEREAS, since the “Bottle Law” was enacted in 1982, there has been a 200 per cent increase in sales and consumption of non-carbonated beverages, with an estimated two billion containers of such drinks being sold in New York State every year; and

WHEREAS, there has been an even further increase in the consumption of bottle drinking water; and

WHEREAS, expanding the recycling obligation to include bottles or cans of noncarbonated drinks such as juice, iced tea, spring water and sports drinks is appropriate and reasonable and would make to recycling efforts much more effective; and

WHEREAS, people are more likely to recycle when they can get back their deposit money; not, therefore, be it

1st **RESOLVED**, that this Legislature hereby requests the State of New York to amend Article 27, Title 10, of the NEW YORK ENVIRONMENTAL CONSERVATION LAW in order to expand the “Bottle Law” to require merchants to collect a five-cent (.05) deposit on bottles or cans of noncarbonated drinks such as juice, iced tea, spring water and sports drinks; and be it further

2nd **RESOLVED**, that the Clerk of this Legislature is hereby directed to forward copies of this Resolution to Governor George E. Pataki; to the Majority Leader of the New York State Senate Joseph L. Bruno; to the Speaker of the New York State Assembly Sheldon Silver; to the Minority Leaders of the New York State Senate and the New York State Assembly; and to each member of the Long Island delegation to the New York State Legislature.

DATED: May 13, 2003

2003-2004 Regular Sessions

S E N A T E - A S S E M B L Y

February 10, 2003

IN SENATE -- Introduced by Sens. LAVALLE, DeFRANCISCO, MARCHI -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. DiNAPOLI, WEISENBERG, GRANNIS, COLTON, DINOWITZ, CYMBROWITZ, ENGLEBRIGHT, CLARK, GALEF, TONKO, CARROZZA, KOON, A. COHEN, PAULIN, HOYT -- Multi-Sponsored by -- M. of A. AUBRY, BRADLEY, BRENNAN, CAHILL, CANESTRARI, CHRISTENSEN, EDDINGTON, GIANARIS, GLICK, GOTTFRIED, GROMACK, GUNTHER, JACOBS, KLEIN, LAFAYETTE, LAVELLE, LENTOL, LEVY, LIFTON, McENENY, McLAUGHLIN, NOLAN, O'DONNELL, PHEFFER, SEDDIO, SIDIKMAN, SMITH, STRINGER, SWEENEY, THIELE, WEINSTEIN -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the state finance law, in relation to returnable beverage containers; and to repeal sections 27-1005, 27-1007 and subdivision 2 of section 27-1011 of the environmental conservation law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 1 and 2 of section 27-1003 of the environ-
2 mental conservation law, subdivision 1 as amended by chapter 778 of the
3 laws of 1988 and subdivision 2 as amended by chapter 546 of the laws of
4 1986, are amended to read as follows:

5 1. "Beverage" means ALL carbonated {soft} AND NON-CARBONATED drinks,
6 {mineral water, soda water,} BUT SHALL NOT INCLUDE MILK, INFANT FORMULA
7 OR ALCOHOLIC BEVERAGES OTHER THAN beer, other malt beverages and {a}
8 wine {product} PRODUCTS as defined in subdivision thirty-six-a of
9 section three of the alcoholic beverage control law. "Malt beverages"

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

LBD06795-04-3

1 means any beverage obtained by the alcoholic fermentation or infusion or
2 decoction of barley, malt, hops, or other wholesome grain or cereal and
3 water including, but not limited to ale, stout or malt liquor.

4 2. "Beverage container" means the individual, separate, sealed glass,
5 metal, aluminum, steel or plastic bottle, can or jar used for containing
6 LESS THAN one gallon or 3.8 liters {or less} at the time of sale of a
7 beverage intended for use or consumption in this state. Beverage
8 containers sold or distributed aboard aircraft or ships shall be consid-
9 ered as intended for use or consumption outside this state.

10 S 2. Subdivision 6 of section 27-1003 of the environmental conserva-
11 tion law, as added by chapter 200 of the laws of 1982, is amended and
12 three new subdivisions 2-a, 6 and 12 are added to read as follows:

13 2-A. "BOTTLER" MEANS A PERSON WHO:

14 A. BOTTLES, CANS OR OTHERWISE PACKAGES BEVERAGES IN BEVERAGE CONTAIN-
15 ERS EXCEPT THAT IF SUCH PACKAGING IS FOR A DISTRIBUTOR HAVING THE RIGHT
16 TO BOTTLE, CAN OR OTHERWISE PACKAGE THE SAME BRAND OF BEVERAGE, THEN
17 SUCH DISTRIBUTOR SHALL BE THE BOTTLER; OR

18 B. IMPORTS FILLED BEVERAGE CONTAINERS INTO THE UNITED STATES.

19 6. A "DEPOSIT INITIATOR" FOR EACH BEVERAGE CONTAINER FOR WHICH A
20 REFUND VALUE IS ESTABLISHED UNDER SECTION 27-1005 OF THIS TITLE MEANS:

21 (A) THE BOTTLER OF THE BEVERAGE IN SUCH CONTAINER;

22 (B) THE DISTRIBUTOR OF SUCH CONTAINER IF SUCH DISTRIBUTOR'S PURCHASE
23 OF SUCH CONTAINER WAS NOT, DIRECTLY OR INDIRECTLY, FROM A REGISTERED
24 DEPOSIT INITIATOR;

25 (C) A DEALER OF SUCH CONTAINER WHO SELLS SUCH CONTAINER IN THIS STATE,
26 WHOSE PURCHASE OF SUCH CONTAINER WAS NOT, DIRECTLY OR INDIRECTLY, FROM A
27 REGISTERED DEPOSIT INITIATOR; OR

28 (D) AN AGENT ACTING ON BEHALF OF A DEPOSIT INITIATOR.

29 {6.} 6-A. "Distributor" means any person, firm or corporation which
30 {bottles, cans or otherwise fills or packages beverage containers, or
31 which} engages in the sale of {such} BEVERAGES IN BEVERAGE containers to
32 a dealer.

33 12. "REVERSE VENDING MACHINE" MEANS A DEVICE WHICH AUTOMATICALLY
34 PROVIDES A RECEIPT FOR A REFUND VALUE OR A REFUND TO A REDEEMER OF A
35 BEVERAGE CONTAINER IN THE AMOUNT OF THE REFUND VALUE OF THE BEVERAGE
36 CONTAINER, UPON PLACEMENT OF THE BEVERAGE CONTAINER ON OR WITHIN THE
37 DEVICE FOR ELECTRONIC VALIDATION OF DEPOSIT REQUIREMENTS.

38 S 3. Sections 27-1005 and 27-1007 of the environmental conservation
39 law are REPEALED and two new sections 27-1005 and 27-1007 are added to
40 read as follows:

41 S 27-1005. REFUND VALUE.

42 NO PERSON SHALL SELL OR OFFER FOR SALE A BEVERAGE CONTAINER IN THIS
43 STATE UNLESS THE DEPOSIT ON SUCH BEVERAGE CONTAINER IS OR HAS BEEN
44 COLLECTED BY A REGISTERED DEPOSIT INITIATOR AND UNLESS SUCH CONTAINER
45 HAS REFUND VALUE OF NOT LESS THAN FIVE CENTS WHICH IS CLEARLY INDICATED
46 THEREON AS PROVIDED IN SECTION 27-1011 OF THIS TITLE.

47 S 27-1007. MANDATORY ACCEPTANCE.

48 EXCEPT AS PROVIDED IN SECTION 27-1009 OF THIS TITLE:

49 1. A DEALER SHALL ACCEPT AT HIS OR HER PLACE OF BUSINESS FROM A
50 REDEEMER ANY EMPTY BEVERAGE CONTAINERS OF THE DESIGN, SHAPE, SIZE,
51 COLOR, COMPOSITION AND BRAND SOLD BY THE DEALER, AND SHALL PAY TO THE
52 REDEEMER THE REFUND VALUE OF EACH SUCH BEVERAGE CONTAINED AS ESTABLISHED
53 IN SECTION 27-1005 OF THIS TITLE. REDEMPTIONS OF REFUND VALUE MUST BE IN
54 LEGAL TENDER. THE USE OR PRESENCE OF A REVERSE VENDING MACHINE SHALL NOT
55 RELIEVE A DEALER OF ANY OBLIGATIONS IMPOSED PURSUANT TO THIS SECTION. ON
56 ANY DAY THAT A DEALER IS OPEN FOR LESS THAN TWENTY-FOUR HOURS, THE DEAL-

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1 ER MAY RESTRICT OR REFUSE THE PAYMENT OF REFUND VALUES DURING THE FIRST
2 AND LAST HOUR THE DEALER IS OPEN FOR BUSINESS.

3 2. A DEALER SHALL POST A CONSPICUOUS SIGN, AT THE POINT OF SALE, THAT
4 STATES: "STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE
5 CONTAINERS OF THE SAME TYPE OF CONTAINER THAT WE SELL." THIS SIGN MUST
6 BE NO LESS THAN EIGHT INCHES BY TEN INCHES IN SIZE AND HAVE LETTERING A
7 MINIMUM OF ONE-HALF INCH HIGH, AND OF A COLOR WHICH CONTRASTS WITH THE
8 BACKGROUND.

9 3. IN A CITY WITH A POPULATION GREATER THAN ONE MILLION, A DEALER MAY

10 LIMIT THE NUMBER OF EMPTY BEVERAGE CONTAINERS TO BE ACCEPTED FOR REDEMP-
11 TION AT THE DEALER'S PLACE OF BUSINESS TO NO LESS THAN SEVENTY-TWO
12 CONTAINERS PER VISIT, PER REDEEMER, PER DAY, PROVIDED THAT:

13 (A) A REDEMPTION CENTER IS LOCATED WITHIN ONE-HALF MILE OF THE DEAL-
14 ER'S PLACE OF BUSINESS; THE REDEMPTION CENTER HAS A WRITTEN AGREEMENT
15 WITH THE DEALER TO ACCEPT CONTAINERS ON BEHALF OF THE DEALER; THE
16 REDEMPTION CENTER'S HOURS OF OPERATION COVER AT LEAST 9:00 A.M. THROUGH
17 7:00 P.M. DAILY; AND THE DEALER POSTS A CONSPICUOUS, PERMANENT SIGN
18 OPEN TO THE PUBLIC VIEW, IDENTIFYING THE LOCATION AND HOURS OF OPERATION
19 OF THE AFFILIATED REDEMPTION CENTER; OR

20 (B) THE DEALER PROVIDES, AT A MINIMUM, A CONSECUTIVE TWO HOUR PERIOD
21 BETWEEN 7:00 A.M. AND 7:00 P.M. DAILY WHEREBY THE DEALER WILL ACCEPT UP
22 TO TWO HUNDRED FORTY CONTAINERS, PER REDEEMER, PER DAY, AND POSTS A
23 CONSPICUOUS, PERMANENT SIGN, OPEN TO THE PUBLIC VIEW, IDENTIFYING THOSE
24 HOURS. THE DEALER MAY NOT CHANGE THE HOURS OF REDEMPTION WITHOUT FIRST
25 POSTING A THIRTY DAY NOTICE.

26 4. A DEPOSIT INITIATOR SHALL ACCEPT FROM A DEALER OR OPERATOR OF A
27 REDEMPTION CENTER ANY EMPTY BEVERAGE CONTAINERS OF THE DESIGN, SHAPE,
28 SIZE, COLOR, COMPOSITION AND BRAND SOLD BY THE DEPOSIT INITIATOR, AND
29 SHALL PAY THE DEALER OR OPERATOR OF A REDEMPTION CENTER THE REFUND VALUE
30 OF EACH SUCH BEVERAGE CONTAINER AS ESTABLISHED BY SECTION 27-1005 OF
31 THIS TITLE.

32 5. IN ADDITION TO THE REFUND VALUE OF A BEVERAGE CONTAINER AS ESTAB-
33 LISHED BY SECTION 27-1005 OF THIS TITLE, A DEPOSIT INITIATOR SHALL PAY
34 TO ANY DEALER, OR OPERATOR OF A REDEMPTION CENTER, A HANDLING FEE OF TWO
35 CENTS FOR EACH BEVERAGE CONTAINER ACCEPTED BY THE DEPOSIT INITIATOR FROM
36 SUCH DEALER, OPERATOR OF A REDEMPTION CENTER OR DISTRIBUTOR. PAYMENT OF
37 THE HANDLING FEE SHALL BE AS COMPENSATION FOR COLLECTING, SORTING AND
38 PACKAGING OF EMPTY BEVERAGE CONTAINERS FOR TRANSPORT BACK TO THE DEPOSIT
39 INITIATOR OR ITS DESIGNEE. PAYMENT OF THE HANDLING FEE MAY NOT BE CONDI-
40 TIONED ON THE PURCHASE OF ANY GOODS OR SERVICES, NOR MAY SUCH PAYMENT BE
41 MADE OUT OF THE REFUND VALUE ACCOUNT ESTABLISHED PURSUANT TO SECTION
42 27-1012 OF THIS TITLE. A DISTRIBUTOR WHO DOES NOT INITIATE DEPOSITS ON A
43 TYPE OF BEVERAGE CONTAINER IS CONSIDERED A DEALER ONLY FOR THE PURPOSE
44 OF RECEIVING A HANDLING FEE FROM A DEPOSIT INITIATOR.

45 6. A DEPOSIT INITIATOR ON A BRAND SHALL ACCEPT FROM A DISTRIBUTOR WHO
46 DOES NOT INITIATE DEPOSITS ON THAT BRAND ANY EMPTY BEVERAGE CONTAINERS
47 OF THAT BRAND AND SHALL PAY THE DISTRIBUTOR THE REFUND VALUE OF EACH
48 SUCH BEVERAGE CONTAINER, AS ESTABLISHED BY SECTION 27-1005 OF THIS
49 TITLE. IN ADDITION, THE DEPOSIT INITIATOR SHALL PAY TO SUCH DISTRIBUTOR
50 FOR EACH SUCH BEVERAGE CONTAINER THE HANDLING FEE ESTABLISHED UNDER
51 SUBDIVISION THREE OF THIS SECTION. WITHOUT LIMITING THE RIGHTS OF THE
52 DEPARTMENT OR ANY PERSONS, FIRM OR CORPORATION UNDER THIS SUBDIVISION OR
53 ANY OTHER PROVISION OF THIS SECTION, A DISTRIBUTOR, A DEALER OR AN OPER-
54 ATOR OF A REDEMPTION CENTER SHALL HAVE A CIVIL RIGHT OF ACTION TO
55 ENFORCE THIS SUBDIVISION, INCLUDING UPON THREE DAYS NOTICE, THE RIGHT TO
56 APPLY FOR TEMPORARY AND PRELIMINARY INJUNCTIVE RELIEF AGAINST CONTINUING

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1 VIOLATIONS AND UNTIL ARRANGEMENTS FOR COLLECTION AND RETURN OF EMPTY
2 CONTAINERS OR REIMBURSEMENT OF THE REDEEMING DISTRIBUTOR FOR SUCH DEPOS-
3 ITS AND HANDLING FEES ARE MADE.

4 7. IF A DISTRIBUTOR REQUIRES EMPTY BEVERAGE CONTAINERS TO BE PACKAGED
5 FOR PICK-UP IN BAGS, CARTONS OR OTHER CONTAINERS, IT SHALL BE THE
6 DISTRIBUTOR'S RESPONSIBILITY TO PROVIDE A DEALER OR REDEMPTION CENTER A
7 SUFFICIENT NUMBER OF SUCH CONTAINERS AT NO COST TO THE DEALER OR
8 DISTRIBUTOR. THE BAGS, CARTONS, OR OTHER CONTAINERS MUST BE PROVIDED BY
9 THE DISTRIBUTOR ON A SCHEDULE THAT ALLOWS THE DEALER OR REDEMPTION

10 CENTER SUFFICIENT TIME TO SORT THE EMPTY BEVERAGE CONTAINERS PRIOR TO
11 PICK UP BY THE DISTRIBUTOR:

12 (A) WHEN PICKING UP EMPTY BEVERAGE CONTAINERS, A DISTRIBUTOR MAY NOT
13 REQUIRE A DEALER OR REDEMPTION CENTER TO LOAD THEIR OWN BAGS, CARTONS OR
14 CONTAINERS ON THE DISTRIBUTOR'S VEHICLE OR VEHICLES OR PROVIDE THE STAFF
15 OR EQUIPMENT NEEDED.

16 (B) IF THE DISTRIBUTOR TRANSPORTS EMPTY CONTAINERS TO BE COUNTED AT A
17 LOCATION OTHER THAN THE DEALER'S PLACE OF BUSINESS, THE DISTRIBUTOR
18 SHALL PROVIDE THE DEALER TWENTY-FOUR HOUR NOTICE OF THE LOCATION, DATE
19 AND TIME OF THE COUNT. THE DEALER OR REDEMPTION CENTER SHALL HAVE THE
20 RIGHT TO BE PRESENT AT THE COUNT.

21 8. NO PERSON SHALL RETURN OR ASSIST ANOTHER TO RETURN AN EMPTY BEVER-
22 AGE CONTAINER FOR ITS REFUND VALUE IF SUCH CONTAINER HAD PREVIOUSLY BEEN
23 ACCEPTED FOR REDEMPTION BY A DEPOSIT INITIATOR WHO INITIATES DEPOSITS ON
24 BEVERAGE CONTAINERS OF THE SAME BRAND.

25 9. IT IS UNLAWFUL FOR A REDEEMER, DEALER, DISTRIBUTOR OR REDEMPTION
26 CENTER TO KNOWINGLY REDEEM, THROUGH A REVERSE VENDING MACHINE OR OTHER-
27 WISE, AN EMPTY BEVERAGE CONTAINER ON WHICH A DEPOSIT WAS NEVER PAID.

28 10. NOTWITHSTANDING THE PROVISIONS OF SECTION 27-1009 OF THIS TITLE, A
29 DEPOSIT INITIATOR SHALL ACCEPT AND REDEEM BEVERAGE CONTAINERS AS
30 PROVIDED IN THIS TITLE, IF THE DEALER OR OPERATOR OF A REDEMPTION CENTER
31 SHALL HAVE ACCEPTED AND PAID THE REFUND VALUE OF SUCH BEVERAGE CONTAIN-
32 ERS.

33 S 4. Section 27-1009 of the environmental conservation law, as added
34 by chapter 200 of the laws of 1982, is amended to read as follows:
35 S 27-1009. Refusal of acceptance.

36 1. A dealer or operator of a redemption center may refuse to accept
37 from a redeemer, and a {distributor} DEPOSIT INITIATOR may refuse to
38 accept from a dealer or operator of a redemption center any empty bever-
39 age container which does not state thereon a refund value as established
40 by section 27-1005 and provided by section 27-1011 of this title.

41 2. A dealer or operator of a redemption center may also refuse to
42 accept any broken bottle, corroded or dismembered can, or any beverage
43 container which contains a significant amount of foreign material, as
44 determined in rules and regulations to be promulgated by the commission-
45 er. {Notwithstanding the provisions of this subdivision, a distributor
46 shall accept beverage containers as provided in subdivision two of
47 section 27-1007 of this title, if the dealer shall have accepted and
48 paid the refund value of such beverage containers.}

49 S 5. Subdivision 2 of section 27-1011 of the environmental conserva-
50 tion law is REPEALED.

51 S 6. The environmental conservation law is amended by adding a new
52 section 27-1012 to read as follows:

53 S 27-1012. DEPOSIT AND DISPOSITION OF REFUND VALUES.

54 1. EACH DEPOSIT INITIATOR SHALL DEPOSIT IN A REFUND VALUE ACCOUNT AN
55 AMOUNT EQUAL TO THE REFUND VALUE REQUIRED TO BE INITIATED UNDER SECTION
56 27-1005 OF THIS TITLE WHICH IS RECEIVED WITH RESPECT TO EACH BEVERAGE

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1 CONTAINER SOLD BY SUCH DEPOSIT INITIATOR. SUCH DEPOSIT INITIATOR SHALL
2 HOLD SUCH AMOUNTS IN TRUST FOR THE STATE. A REFUND VALUE ACCOUNT SHALL
3 BE AN INTEREST-BEARING ACCOUNT ESTABLISHED IN A BANKING INSTITUTION
4 APPROVED BY THE COMMISSIONER OF TAXATION AND FINANCE AND LOCATED IN THIS
5 STATE, THE DEPOSITS IN WHICH ARE INSURED BY AN AGENCY OF THE FEDERAL
6 GOVERNMENT. DEPOSITS OF SUCH AMOUNTS SHALL BE MADE NOT LESS FREQUENTLY
7 THAN EVERY FIVE BUSINESS DAYS. ALL INTEREST, DIVIDENDS AND RETURNS
8 EARNED ON THE ACCOUNT SHALL BE PAID DIRECTLY INTO SAID ACCOUNT. SUCH
9 MONIES SHALL BE KEPT SEPARATE AND APART FROM ALL OTHER MONEYS IN THE

10 POSSESSION OF THE DEPOSIT INITIATOR. THE COMMISSIONER OF TAXATION AND
11 FINANCE MAY SPECIFY A SYSTEM OF ACCOUNTS AND RECORDS TO BE MAINTAINED
12 WITH RESPECT TO ACCOUNTS ESTABLISHED UNDER THIS SUBDIVISION.

13 2. PAYMENTS OF REFUND VALUES PURSUANT TO SECTION 27-1007 OF THIS TITLE
14 SHALL BE PAID FROM SUCH REFUND VALUE ACCOUNT. NO OTHER PAYMENT OR WITH-
15 DRAWAL FROM SUCH ACCOUNT MAY BE MADE EXCEPT AS PRESCRIBED BY THIS TITLE.

16 3. EACH DEPOSIT INITIATOR SHALL FILE QUARTERLY REPORTS WITH THE
17 COMMISSIONER OF TAXATION AND FINANCE ON A FORM AND IN THE MANNER
18 PRESCRIBED BY SUCH COMMISSIONER. THE QUARTERLY REPORTS REQUIRED BY THIS
19 SUBDIVISION SHALL BE FILED FOR THE QUARTERLY PERIODS ENDING ON THE LAST
20 DAY OF MAY, AUGUST, NOVEMBER AND FEBRUARY OF EACH YEAR, AND EACH SUCH
21 REPORT SHALL BE FILED WITHIN TWENTY DAYS AFTER THE END OF THE QUARTERLY
22 PERIOD COVERED THEREBY. EACH SUCH REPORT SHALL INCLUDE, IN ADDITION TO
23 ANY OTHER INFORMATION SUCH COMMISSIONER SHALL DETERMINE APPROPRIATE, THE
24 FOLLOWING INFORMATION:

25 A. THE BALANCE IN THE REFUND VALUE ACCOUNT AT THE BEGINNING OF THE
26 QUARTER FOR WHICH THE REPORT IS PREPARED;

27 B. ALL SUCH DEPOSITS CREDITED TO SUCH ACCOUNT AND ALL INTEREST, DIVI-
28 DENDS OR RETURNS ARE RECEIVED ON SUCH ACCOUNT, DURING SUCH QUARTER;

29 C. ALL WITHDRAWALS FROM SUCH ACCOUNT, DURING SUCH QUARTER, INCLUDING
30 ALL REIMBURSEMENTS PAID PURSUANT TO SUBDIVISION TWO OF THIS SECTION, ALL
31 SERVICE CHARGES ON THE ACCOUNT, AND ALL PAYMENTS MADE PURSUANT TO SUBDI-
32 VISION FOUR OF THIS SECTION; AND

33 D. THE BALANCE IN SUCH ACCOUNT AT THE CLOSE OF SUCH QUARTER.

34 4. A. AN AMOUNT EQUAL TO THE BALANCE OUTSTANDING IN THE REFUND VALUE
35 ACCOUNT AT THE CLOSE OF EACH QUARTER SHALL BE PAID TO THE COMMISSIONER
36 OF TAXATION AND FINANCE AT THE TIME THE REPORT PROVIDED FOR IN SUBDIVI-
37 SION THREE OF THIS SECTION IS REQUIRED TO BE FILED. IF THE PROVISIONS OF
38 THIS SECTION WITH RESPECT TO SUCH ACCOUNT HAVE NOT BEEN FULLY COMPLIED
39 WITH, EACH DEPOSIT INITIATOR SHALL PAY TO SUCH COMMISSIONER AT SUCH
40 TIME, IN LIEU OF THE AMOUNT DESCRIBED IN THE PRECEDING SENTENCE, AN
41 AMOUNT EQUAL TO THE BALANCE WHICH WOULD HAVE BEEN OUTSTANDING ON SUCH
42 DATE HAD SUCH PROVISIONS BEEN FULLY COMPLIED WITH.

43 B. ALL MONEYS COLLECTED OR RECEIVED BY THE COMMISSIONER OF TAXATION
44 AND FINANCE PURSUANT TO THIS SECTION SHALL BE CREDITED TO THE SOLID
45 WASTE ACCOUNT WITHIN THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED BY
46 PARAGRAPH A OF SUBDIVISION TWO OF SECTION NINETY-TWO-S OF THE STATE
47 FINANCE LAW. THE AMOUNT TO BE SO DEPOSITED SHALL BE CERTIFIED TO THE
48 COMPTROLLER BY SUCH COMMISSIONER OR HIS OR HER DELEGATE. WHERE THE
49 AMOUNT SO DEPOSITED INTO SUCH UNCLAIMED DEPOSITS ACCOUNT IN ANY SUCH
50 DISTRIBUTION IS MORE OR LESS THAN THE AMOUNT THEN DUE TO SUCH UNCLAIMED
51 DEPOSITS ACCOUNT, THE AMOUNT OF THE OVERPAYMENT OR UNDERPAYMENT SHALL BE
52 CERTIFIED TO THE COMPTROLLER BY SUCH COMMISSIONER OR HIS OR HER DELE-
53 GATE. THE AMOUNT OF THE OVERPAYMENT OR UNDERPAYMENT SHALL BE SO CERTI-
54 FIED TO THE COMPTROLLER AS SOON AFTER THE DISCOVERY OF THE OVERPAYMENT
55 OR UNDERPAYMENT AS REASONABLY POSSIBLE AND SUBSEQUENT PAYMENTS AND
56 DISTRIBUTIONS BY THE COMPTROLLER TO SUCH UNCLAIMED DEPOSITS ACCOUNT

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1 SHALL BE ADJUSTED BY SUBTRACTING THE AMOUNT OF ANY SUCH OVERPAYMENT FROM
2 OR BY ADDING THE AMOUNT OF ANY SUCH UNDERPAYMENT TO SUCH NUMBER OF
3 SUBSEQUENT PAYMENTS AND DISTRIBUTIONS AS THE COMPTROLLER AND SUCH
4 COMMISSIONER SHALL CONSIDER REASONABLE IN VIEW OF THE AMOUNT OF THE
5 OVERPAYMENT OR UNDERPAYMENT AND ALL OTHER FACTS OR CIRCUMSTANCES.

6 5. IF AT ANY TIME THE MONEYS CONTAINED IN A DEPOSIT INITIATOR'S REFUND
7 VALUE ACCOUNT ARE INSUFFICIENT TO PERMIT A WITHDRAWAL AUTHORIZED BY THIS
8 SECTION AND IF, AS A RESULT OF SUCH INSUFFICIENCY, FUNDS OTHER THAN
9 THOSE CONTAINED IN SUCH ACCOUNT ARE USED TO MAKE PAYMENTS WHICH OTHER-

10 WISE COULD HAVE BEEN MADE IN ACCORDANCE WITH THIS SECTION FROM MONEYS
11 CONTAINED IN SUCH DEPOSIT INITIATOR MAY, THEREAFTER, UPON APPROVAL OF
12 THE COMMISSIONER OF TAXATION AND FINANCE, WITHDRAW FROM SUCH ACCOUNT AND
13 RETAIN FOR HIMSELF OR HERSELF AN AMOUNT EQUAL TO SUCH PAYMENTS. NOTHING
14 HEREIN SHALL BE CONSTRUED TO RELIEVE SUCH DEPOSIT INITIATOR FROM AN
15 OBLIGATION TO PAY EITHER THE REFUND VALUE AND HANDLING FEE FOR EACH
16 REDEEMED BEVERAGE CONTAINER IN ACCORDANCE WITH THIS TITLE OR ANY AMOUNT
17 REQUIRED BY SUBDIVISION FOUR OF THIS SECTION AT THE TIME PRESCRIBED IN
18 SUCH SUBDIVISION.

19 6. THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE MAY
20 PROMULGATE, AND SHALL CONSULT EACH OTHER IN PROMULGATING, SUCH RULES AND
21 REGULATIONS AS MAY BE NECESSARY OR DESIRABLE TO EFFECTUATE THE PURPOSES
22 OF THIS SECTION. THE COMMISSIONER SHALL PROVIDE ALL NECESSARY AID AND
23 ASSISTANCE TO THE COMMISSIONER OF TAXATION AND FINANCE IN CONNECTION
24 WITH THE ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS OF THIS
25 SECTION.

26 7. EACH DEPOSIT INITIATOR SHALL REGISTER WITH THE COMMISSIONER OF
27 TAXATION AND FINANCE AS A DEPOSIT INITIATOR UNDER THIS TITLE. THE APPLI-
28 CATION SHALL BE IN SUCH FORM AND CONTAIN SUCH INFORMATION AND SHALL BE
29 FILED AT SUCH TIME AND UNDER SUCH CONDITIONS, AS SUCH COMMISSIONER MAY
30 PRESCRIBE. NO DEPOSIT INITIATOR, UNLESS SO REGISTERED, SHALL MAKE ANY
31 SALE WITHIN THIS STATE OF BEVERAGE CONTAINERS, EXCEPT A SALE, IF ANY, AS
32 TO WHICH THIS STATE IS WITHOUT POWER TO IMPOSE SUCH CONDITION.

33 8. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE THE MAINTE-
34 NANCE OF SUCH ACCOUNTS, RECORDS OR DOCUMENTS RELATING TO THE SALE OF
35 BEVERAGE CONTAINERS, BY ANY BEVERAGE MANUFACTURER, DISTRIBUTOR, DEALER
36 OR REDEMPTION CENTER AS SUCH COMMISSIONER MAY DEEM APPROPRIATE FOR THE
37 ADMINISTRATION OF THIS SECTION. THE COMMISSIONER MAY MAKE EXAMINATIONS,
38 INCLUDING THE CONDUCT OF FACILITY INSPECTIONS DURING REGULAR BUSINESS
39 HOURS, WITH RESPECT TO THE ACCOUNTS, RECORDS OR DOCUMENTS REQUIRED TO BE
40 MAINTAINED UNDER THIS SUBDIVISION. SUCH ACCOUNTS, RECORDS AND DOCUMENTS
41 SHALL BE PRESERVED FOR A PERIOD OF THREE YEARS, EXCEPT THAT THE COMMIS-
42 SIONER MAY CONSENT TO THEIR DESTRUCTION WITHIN THAT PERIOD OR MAY
43 REQUIRE THAT THEY BE KEPT LONGER. SUCH ACCOUNTS, RECORDS AND DOCUMENTS
44 MAY BE KEPT WITHIN THE MEANING OF THIS SUBDIVISION WHEN REPRODUCED BY
45 ANY PHOTOGRAPHIC, PHOTOSTATIC, MICROFILM, MICRO-CARD, MINIATURE PHOTO-
46 GRAPHIC OR OTHER PROCESS WHICH ACTUALLY REPRODUCES THE ORIGINAL
47 ACCOUNTS, RECORDS OR DOCUMENTS.

48 9. A. ANY PERSON REQUIRED TO BE REGISTERED UNDER THIS SECTION WHO,
49 WITHOUT BEING SO REGISTERED, MAKES SALES OF BEVERAGE CONTAINERS IN THIS
50 STATE, IN ADDITION TO ANY OTHER PENALTY IMPOSED BY THIS TITLE, SHALL BE
51 SUBJECT TO A PENALTY IN AN AMOUNT NOT EXCEEDING FIVE HUNDRED DOLLARS FOR
52 THE FIRST DAY ON WHICH SUCH SALES ARE MADE, PLUS AN AMOUNT NOT EXCEEDING
53 FIVE HUNDRED DOLLARS FOR EACH SUBSEQUENT DAY ON WHICH SUCH SALES ARE
54 MADE, NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS IN THE AGGREGATE.

55 B. ANY DEPOSIT INITIATOR WHO FAILS TO MAINTAIN ACCOUNTS OR RECORDS
56 PURSUANT TO THIS SECTION, UNLESS IT IS SHOWN THAT SUCH FAILURE WAS DUE

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1 TO REASONABLE CAUSE AND NOT DUE TO NEGLIGENCE OR WILLFULL NEGLECT, SHALL
2 BE SUBJECT TO A PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH
3 QUARTER DURING WHICH SUCH FAILURE OCCURRED OR CONTINUES.

4 S 7. Section 27-1013 of the environmental conservation law, as amended
5 by chapter 149 of the laws of 1983, is amended to read as follows:

6 S 27-1013. Redemption centers.

7 The commissioner is hereby empowered to promulgate rules and regu-
8 lations governing (1) the circumstances in which dealers and distribu-
9 tors, individually or collectively, are required to accept the return of

10 empty beverage containers, and make payment therefor; (2) the sorting of
11 the containers which a {distributor} DEPOSIT INITIATOR may require of
12 dealers and redemption centers; (3) the {pick up} COLLECTION of returned
13 beverage containers by {distributors} DEPOSIT INITIATORS, including the
14 party to whom such expense is to be charged, the frequency of such pick
15 ups and the payment for refunds and handling fees thereon; (4) the right
16 of dealers to restrict or limit the number of containers redeemed, the
17 rules for redemption at the dealers` place of business, and the redemp-
18 tion of containers from a beverage for which sales have been discontin-
19 ued, and to issue permits to persons, firms or corporations which estab-
20 lish redemption centers, subject to applicable provisions of local and
21 state laws, at which redeemers and dealers may return empty beverage
22 containers and receive payment of the refund value of such beverage
23 containers. No dealer or distributor, as defined in section 27-1003 OF
24 THIS TITLE, shall be required to obtain a permit to operate a redemption
25 center at the same location as the dealer`s or distributor`s place of
26 business. Operators of such redemption centers shall receive payment of
27 the refund value of each beverage container from the appropriate
28 manufacturer or distributor as provided under {sections} SECTION 27-1007
29 {and 27-1009} of this title.

30 S 8. Subdivision 4 of section 54-0701 of the environmental conserva-
31 tion law, as added by chapter 610 of the laws of 1993, is amended to
32 read as follows:

33 4. "Recycling project" means recyclables recovery equipment, source
34 separation equipment, a recyclables recovery program or any combination
35 thereof required by a recyclables recovery program AND THE REIMBURSEMENT
36 TO MUNICIPALITIES AND NOT-FOR-PROFIT CORPORATIONS, AS SUCH TERMS ARE
37 DEFINED IN SECTION 54-0101 OF THIS ARTICLE, FOR THE COST OF A REDEMPTION
38 CENTER AS DEFINED IN SECTION 27-1003 OF THIS CHAPTER.

39 S 9. The environmental conservation law is amended by adding a new
40 section 54-0704 to read as follows:

41 S 54-0704. APPROVAL OF STATE ASSISTANCE PAYMENTS FROM DEPOSITS OF BEVER-
42 AGE CONTAINER REFUND VALUES.

43 IN ADDITION TO AND APART FROM STATE ASSISTANCE PAYMENTS OTHERWISE
44 APPROVED UNDER THIS TITLE, THE COMMISSIONER SHALL APPROVE STATE ASSIST-
45 ANCE PAYMENTS FROM MONIES DEPOSITED IN THE SOLID WASTE ACCOUNT WITHIN
46 THE ENVIRONMENTAL PROTECTION FUND PURSUANT TO PARAGRAPH B OF SUBDIVISION
47 FOUR OF SECTION 27-1012 OF THIS CHAPTER AND APPROPRIATED FROM SUCH
48 ACCOUNT PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW FOR
49 THE PURPOSES OF MUNICIPAL WASTE REDUCTION OR RECYCLING PROJECTS OR FOR
50 THE PURPOSES OF SECTIONS TWO HUNDRED SIXTY-ONE AND TWO HUNDRED
51 SIXTY-FOUR OF THE ECONOMIC DEVELOPMENT LAW ONLY. SUCH PAYMENTS SHALL BE
52 APPROVED WITHIN EACH ADMINISTRATIVE REGION IN PROPORTION TO THE AMOUNT
53 OF SUCH DEPOSITS RECEIVED FROM DEPOSIT INITIATORS WITHIN EACH SUCH
54 REGION. THE COMMISSIONER SHALL ANNUALLY REPORT ON THE AMOUNT OF SUCH
55 DEPOSITS MADE WITHIN EACH REGION AND THE AMOUNT OF STATE ASSISTANCE
56 PAYMENTS APPROVED PURSUANT TO THIS SECTION.

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1 S 10. Subdivision 3 of section 92-s of the state finance law, as
2 amended by chapter 309 of the laws of 1996, is amended to read as
3 follows:

4 3. Such fund shall consist of the amount of revenue collected within
5 the state from the amount of revenue, interest and penalties deposited
6 pursuant to section fourteen hundred twenty-one of the tax law, the
7 amount of fees and penalties received from easements or leases pursuant
8 to subdivision fourteen of section seventy-five of the public lands law
9 and the money received as annual service charges pursuant to section

10 four hundred four-1 of the vehicle and traffic law, all moneys required
11 to be deposited therein from the contingency reserve fund pursuant to
12 section two hundred ninety-four of chapter fifty-seven of the laws of
13 nineteen hundred ninety-three, all moneys required to be deposited
14 pursuant to section thirteen of chapter six hundred ten of the laws of
15 nineteen hundred ninety-three, repayments of loans made pursuant to
16 section 54-0511 of the environmental conservation law, all moneys to be
17 deposited from the Northville settlement pursuant to section {thirteen}
18 ONE HUNDRED TWENTY-FOUR of {the} chapter THREE HUNDRED NINE of the laws
19 of nineteen hundred ninety-six {which enacted this provision}, provided
20 however, that such moneys shall only be used for the cost of the
21 purchase of private lands in the core area of the central Suffolk pine
22 barrens pursuant to a consent order with the Northville industries
23 signed on October thirteenth, nineteen hundred ninety-four and the
24 related resource restoration and replacement plan, ALL MONEYS REQUIRED
25 TO BE DEPOSITED PURSUANT TO PARAGRAPH B OF SUBDIVISION FOUR OF SECTION
26 27-1012 OF THE ENVIRONMENTAL CONSERVATION LAW, PROVIDED THAT ALL SUCH
27 MONIES SHALL BE CREDITED TO THE SOLID WASTE ACCOUNT, TO BE AVAILABLE
28 SOLELY FOR MUNICIPAL WASTE REDUCTION OR RECYCLING PROJECTS OR FOR THE
29 PURPOSES OF SECTIONS TWO HUNDRED SIXTY-ONE AND TWO HUNDRED SIXTY-FOUR OF
30 THE ECONOMIC DEVELOPMENT LAW, PURSUANT TO SECTION 54-0704 OF THE ENVI-
31 RONMENTAL CONSERVATION LAW, and all other moneys credited or transferred
32 thereto from any other fund or source pursuant to law. All such revenue
33 shall be initially deposited into the environmental protection fund, for
34 application as provided in subdivision five of this section.
35 S 11. This act shall take effect on the first of January next succeed-
36 ing the date on which it shall have become a law.

POLICY CHANGE CATEGORY

CHIEF ENVIRONMENTALIST

Smart Growth for the New Century Act

PROPOSAL

Suffolk County supports the enactment of State legislation S.5483 LaValle/A8652 DiNapoli which has been introduced entitled; "The Smart Growth for the New Century Act." This legislation provides for: (1) set of smart growth principles (2) local governments to work together in collaborative community based efforts to adopt "smart growth plans" that conform to these principles (3) creation of a technical assistance office in the Department of State (DOS) (4) certification of such plan by the DOS, which will then qualify areas (local governments) with certain state benefits including access to the Smart Growth Revolving Loan Fund.

JUSTIFICATION

Many planning and zoning actions of local governments and state infrastructure (funding) decisions have supported a pattern of settlement and land use that necessitates expansive and expensive infrastructure resulting in new roads, water supplies, sewer treatment facilities, utilities, and other types of public facilities. This legislation would provide for coordination and consistency among all levels of government (who have developed smart growth plans) for land use decisions and infrastructure investments based on a process that involves communities and stakeholders.

FISCAL IMPACT

It is anticipated that some state funding would be provided for developing the smart growth plan. After the plan is approved, this legislation would provide for access to funding through the Smart Growth Revolving Loan Fund and savings through improved infrastructure planning.

BACKGROUND & STATISTICS

Pursuant to Suffolk County Resolution No. 212-2000, the Suffolk County Planning Dept. prepared a report entitled: "Smart Growth Policy Plan for Suffolk County." This report defines smart growth as "anticipating and providing for sensible growth, balancing jobs and economic development with the preservation of the natural environment and the historical community fabric." In order to promote and achieve these regional goals, state and local governments should work together to achieve efficient and effective infrastructure investment, consistency and fairness in land use decisions, and protection of "home rule."

LEGISLATIVE HISTORY

New bill.

2003-2004 Regular Sessions

I N A S S E M B L Y

May 28, 2003

Introduced by COMMITTEE ON RULES -- (at request of M. of A. DiNapoli, Hoyt, Brodsky, Paulin, Seddio, Gromack, Clark, Galef, Bradley, Cahill, DelMonte, Eddington, Lafayette, Lavelle, McEnery, Ortiz, Robinson, Sanders, Seminerio, Sweeney, Titus, Weisenberg) -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, the general municipal law, the public authorities law, the agriculture and markets law, the real property tax law, the state finance law and the executive law, in relation to enacting the Smart Growth for the New Century Act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and declarations. The legislature
2 hereby finds and declares that:
3 New York state has a history of leading the way in protecting the
4 environment, encouraging economic activity, and pursuing equity for all
5 of its citizens. However, planning and zoning actions of local govern-
6 ments and state infrastructure funding decisions have supported a
7 pattern of settlement and land use which necessitates expansive and
8 expensive infrastructure resulting in new roadways, water supplies,
9 sewer treatment facilities, utilities and other public facilities at
10 great cost to the taxpayer and ratepayer. With this pattern of dispersed
11 development, public investment in existing infrastructure located in
12 traditional main streets, downtown areas and established suburbs has
13 been underutilized and those areas have suffered economically.
14 Local governments need to focus on soundly planned growth, so called
15 smart growth, through a collaborative community based effort to arrive
16 at a workable plan generated by the community, which responds to the
17 economic, social and environmental needs of the municipality and the
18 region. Local governments should encourage and support development in
19 target areas that have previously been developed or in designated areas

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 that make economic, social and environmental sense as target areas for
2 new development.
3 Intelligent land use planning requires coordination and consistency
4 among all levels of government. In order to promote regional goals, it
5 is time for the state and local governments to work together to achieve
6 efficient and effective infrastructure investment, consistency and fair-
7 ness in land use decisions and the protection of New York's long history
8 of home rule.
9 The Smart Growth for the New Century Act sets out a process to achieve
10 an improved economy, a healthier environment and equity for the people

11 of New York.
12 S 2. The environmental conservation law is amended by adding a new
13 article 50 to read as follows:

14 ARTICLE 50

15 SMART GROWTH FOR THE NEW CENTURY ACT

16 SECTION 50-0101. SHORT TITLE.

17 50-0103. DEFINITIONS.

18 50-0105. SMART GROWTH PRINCIPLES.

19 50-0107. SMART GROWTH PLAN.

20 50-0109. SMART GROWTH COMPACT.

21 50-0111. SMART GROWTH REVIEW BOARD.

22 50-0113. POWERS AND DUTIES.

23 50-0115. CERTIFICATION PROCEDURE.

24 50-0117. STATE CONSISTENCY AND INCENTIVES.

25 50-0119. MUNICIPAL AUTHORIZATION INCENTIVES.

26 S 50-0101. SHORT TITLE.

27 THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "SMART GROWTH FOR
28 THE NEW CENTURY ACT".

29 S 50-0103. DEFINITIONS.

30 AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL MEAN:

31 1. "SMART GROWTH PLAN" OR "PLAN" SHALL MEAN THE DOCUMENT MEETING THE
32 REQUIREMENTS OF SECTION 50-0107 OF THIS ARTICLE, INCLUDING A PLAN
33 PREPARED THROUGH THE COMPACT PROCESS PURSUANT TO SECTION 50-0109 OF THIS
34 ARTICLE, AND SUBMITTED FOR CERTIFICATION PURSUANT TO SECTION 50-0115 OF
35 THIS ARTICLE.

36 2. "LAND USE REGULATION" SHALL MEAN AN ORDINANCE OR LOCAL LAW ENACTED
37 BY A LOCAL GOVERNMENT FOR THE REGULATION OF ANY ASPECT OF LAND USE AND
38 COMMUNITY RESOURCE PROTECTION AND INCLUDES ANY ZONING, SUBDIVISION,
39 SPECIAL USE PERMIT OR SITE PLAN REGULATION OR ANY OTHER REGULATION WHICH
40 PRESCRIBES THE APPROPRIATE USE OF PROPERTY OR THE SCALE, LOCATION AND
41 INTENSITY OF DEVELOPMENT.

42 3. "GROWTH" SHALL MEAN COMMERCIAL, RESIDENTIAL, OR INDUSTRIAL DEVELOP-
43 MENT IN A PREVIOUSLY UNDEVELOPED AREA OR AREA WITH LIMITED DEVELOPMENT.

44 4. "REDEVELOPMENT" SHALL MEAN COMMERCIAL, RESIDENTIAL, OR INDUSTRIAL
45 DEVELOPMENT IN A PREVIOUSLY DEVELOPED AREA.

46 5. "PRESERVATION" SHALL MEAN MAINTAINING LANDS IN EXISTING USES, OR
47 USES THAT ARE COMPATIBLE WITH EXISTING USES AND WHICH DO NOT INCREASE
48 THE OVERALL DENSITY OF DEVELOPMENT IN AN AREA AND MAINTAIN SCENIC, OPEN
49 SPACE, WATER QUALITY, WETLANDS, AGRICULTURAL LANDS AND WILDLIFE CONDI-
50 TIONS IN AN AREA, OR RESTORING LANDS TO AN OPEN CONDITION.

51 6. "PUBLIC OPEN SPACE" MEANS PRESERVATION AREAS THAT ARE ACCESSIBLE TO
52 THE GENERAL PUBLIC FOR RECREATIONAL OR SCENIC USE, OR WHICH ARE RESERVED
53 FOR WILDLIFE.

54 7. "BOARD" SHALL MEAN THE SMART GROWTH REVIEW BOARD.

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1 8. "SMART GROWTH COMPACT COUNCIL", "COMPACT COUNCIL" OR "COUNCIL"
2 SHALL MEAN A COUNCIL ESTABLISHED PURSUANT TO SECTION 50-0109 OF THIS
3 ARTICLE.

4 9. "SMART GROWTH COMPACT AREA", "COMPACT AREA" OR "AREA" SHALL MEAN A
5 REGION DESIGNATED PURSUANT TO SECTION 50-0109 OF THIS ARTICLE.

6 10. "PARTICIPATING COMMUNITY" SHALL MEAN A COUNTY, CITY, TOWN OR
7 VILLAGE IN A DESIGNATED AREA WITH A CERTIFIED COMPACT PLAN AND, IN THE
8 CASE OF A CITY, TOWN OR VILLAGE, APPROVED IMPLEMENTING LAND USE REGU-
9 LATIONS.

10 S 50-0105. SMART GROWTH PRINCIPLES.

11 THE SMART GROWTH PRINCIPLES SHALL BE:

12 1. PUBLIC INVESTMENT. TO PLAN SO AS TO ACCOUNT FOR AND MINIMIZE THE

13 TRUE SOCIAL, ECONOMIC AND ENVIRONMENTAL COSTS OF NEW DEVELOPMENT,
14 INCLUDING INFRASTRUCTURE COSTS SUCH AS TRANSPORTATION, SEWERS AND WASTE-
15 WATER TREATMENT, WATER, SCHOOLS, RECREATION, AND OPEN SPACE;

16 2. ECONOMIC DEVELOPMENT. TO ENCOURAGE ECONOMIC DEVELOPMENT IN AREAS
17 WHERE TRANSPORTATION, WATER AND SEWER INFRASTRUCTURE ARE READILY AVAIL-
18 ABLE OR ECONOMICALLY PRACTICAL;

19 3. CONSERVATION. TO PROTECT, PRESERVE, AND ENHANCE THE STATE`S
20 RESOURCES, INCLUDING AGRICULTURAL LAND, FORESTS, SURFACE WATER AND
21 GROUNDWATER, RECREATION AND OPEN SPACE, SCENIC AREAS, AND SIGNIFICANT
22 HISTORIC AND ARCHAEOLOGICAL SITES;

23 4. COORDINATION. TO PROMOTE COORDINATION OF STATE AND LOCAL GOVERNMENT
24 DECISIONS AND COOPERATION AMONG COMMUNITIES TO WORK TOWARDS THE MOST
25 EFFICIENT, PLANNED, AND COST-EFFECTIVE DELIVERY OF GOVERNMENT SERVICES
26 BY, AMONG OTHER MEANS, FACILITATING COOPERATIVE AGREEMENTS AMONG ADJA-
27 CENT COMMUNITIES AND TO COORDINATE PLANNING TO ENSURE COMPATIBILITY OF
28 ONE COMMUNITY`S DEVELOPMENT WITH DEVELOPMENT OF NEIGHBORING COMMUNITIES;

29 5. COMMUNITY DESIGN. TO STRENGTHEN COMMUNITIES BY ADOPTING DEVELOPMENT
30 AND REDEVELOPMENT STRATEGIES, INCLUDING INTEGRATION OF ALL INCOME AND
31 AGE GROUPS, MIXED LAND USES AND COMPACT DEVELOPMENT, DOWNTOWN REVITALI-
32 ZATION, BROWNFIELD REDEVELOPMENT, ENHANCED BEAUTY IN PUBLIC SPACES, AND
33 DIVERSE AND AFFORDABLE HOUSING IN PROXIMITY TO PLACES OF EMPLOYMENT,
34 RECREATION AND COMMERCIAL DEVELOPMENT;

35 6. TRANSPORTATION. TO PROVIDE TRANSPORTATION CHOICES, INCLUDING
36 INCREASING PUBLIC TRANSIT, IN ORDER TO REDUCE AUTOMOBILE DEPENDENCY,
37 TRAFFIC CONGESTION AND AUTOMOBILE POLLUTION; AND

38 7. CONSISTENCY. TO ENSURE PREDICTABILITY IN BUILDING AND LAND USE
39 CODES.

40 S 50-0107. SMART GROWTH PLAN.

41 1. ANY VILLAGE, TOWN, CITY, COUNTY OR SMART GROWTH COMPACT COUNCIL
42 EXCEPT CITIES WITH A POPULATION OF ONE MILLION OR MORE, MAY SUBMIT A
43 SMART GROWTH PLAN TO THE BOARD. SUCH A PLAN SHALL:

44 A. IMPLEMENT THE SMART GROWTH PRINCIPLES SET FORTH IN SECTION 50-0105
45 OF THIS ARTICLE;

46 B. PRESENT A LONG-RANGE PLAN OF NO LESS THAN TWENTY YEARS WHICH SHALL
47 DETAIL GROWTH AND CONSERVATION GOALS, AS WELL AS INFRASTRUCTURE, CAPITAL
48 AND SERVICE REQUIREMENTS NEEDED TO MEET SUCH GOALS;

49 C. INCLUDE A MAP OR MAPS DELINEATING ALL AREAS DESIGNATED IN THE PLAN
50 FOR GROWTH, REDEVELOPMENT, PRESERVATION, PUBLIC OPEN SPACE, OR OTHER
51 DESIGNATIONS CONTAINED IN THE LONG-RANGE PLAN;

52 D. DEMONSTRATE THE MANNER IN WHICH EXISTING OR PLANNED LAND USE REGU-
53 LATIONS WILL ENSURE COMPLIANCE WITH THE PLAN; AND

54 E. DEMONSTRATE THE EXTENT OF PUBLIC PARTICIPATION IN THE CREATION OF
55 THE PLAN, AND THE MANNER IN WHICH PUBLIC PARTICIPATION WILL BE INCLUDED
56 IN THE IMPLEMENTATION OF THE PLAN.

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1 2. A SMART GROWTH PLAN MAY CONSIST OF A COMPREHENSIVE PLAN OR ANY
2 OTHER DOCUMENT THAT SATISFIES THE ELEMENTS OF THIS SECTION AND THE
3 REQUIREMENTS OF THE BOARD.

4 3. IN ORDER TO ADOPT A SMART GROWTH PLAN OR AMENDMENT THERETO, THE
5 LOCAL LEGISLATIVE BODY OR BODIES SHALL:

6 A. CONVENE A SERIES OF CONSENSUS-BUILDING MEETINGS AND TECHNICAL
7 SESSIONS THAT MAY BE IN COORDINATION WITH FEDERAL, STATE, COUNTY, OTHER
8 LOCAL GOVERNMENTS, REGIONAL AND LOCAL PUBLIC CORPORATIONS, SPECIAL
9 DISTRICTS AND PRIVATE ORGANIZATIONS TO DISCUSS LOCAL IMPLEMENTATION OF
10 SMART GROWTH PRINCIPLES;

11 B. PREPARE OR CAUSE TO BE PREPARED A DRAFT PLAN OR AMENDMENT;

12 C. HOLD ONE OR MORE PUBLIC HEARINGS AND SUCH OTHER MEETINGS AS IT

13 DEEMS NECESSARY TO ASSURE FULL OPPORTUNITY FOR CITIZEN PARTICIPATION IN
14 THE REVIEW OF SUCH DRAFT PLAN OR AMENDMENT. THE HEARING RECORD FOR ANY
15 SUCH HEARING SHALL REMAIN OPEN FOR AT LEAST NINETY DAYS;
16 D. PROVIDE NOTICE OF ANY PUBLIC HEARING PURSUANT TO THIS SECTION WHICH
17 SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICI-
18 PALITY OR MUNICIPALITIES AT LEAST TEN CALENDAR DAYS BUT NO MORE THAN
19 TWENTY DAYS IN ADVANCE OF THE HEARING;
20 E. MAKE AVAILABLE FOR PUBLIC REVIEW ANY PLAN OR AMENDMENT SUBJECT TO A
21 PUBLIC HEARING PURSUANT TO THIS SECTION AT A MUNICIPAL OFFICE AND AT ANY
22 OTHER APPROPRIATE PUBLIC PLACE, INCLUDING A PUBLIC LIBRARY, FROM THE
23 DATE OF NOTICE TO THE CLOSE OF THE PUBLIC HEARING RECORD;
24 F. HOLD ONE OR MORE PUBLIC HEARINGS PRIOR TO ADOPTION OF THE FINAL
25 PLAN. THE HEARING RECORD FOR ANY SUCH HEARING SHALL REMAIN OPEN FOR
26 THIRTY DAYS;
27 G. ADOPT SUCH PLAN OR AMENDMENT THERETO BY LOCAL LAW OR ORDINANCE;
28 H. SUBMIT THE FINAL ADOPTED PLAN OR AMENDMENT THERETO WITH COMPLETED
29 APPLICATION FORM TO THE BOARD FOR CERTIFICATION; AND
30 I. REVIEW THE SMART GROWTH PLAN NOT LESS THAN EVERY TEN YEARS AFTER
31 THE PLAN HAS RECEIVED FINAL CERTIFICATION AND, IF NECESSARY, MAKE AMEND-
32 MENTS PURSUANT TO THIS SECTION; IN NO EVENT SHALL A PLAN BE IN PLACE
33 WITH A REMAINING DURATION OF FEWER THAN EIGHT YEARS.
34 4. ENVIRONMENTAL REVIEW. A SMART GROWTH PLAN SHALL BE ACCOMPANIED BY
35 A GENERIC ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO ARTICLE EIGHT OF
36 THIS CHAPTER AND SUCH REGULATIONS. UPON FINAL CERTIFICATION AND ADOPTION
37 OF THE GENERIC ENVIRONMENTAL IMPACT STATEMENT, NO FURTHER COMPLIANCE
38 WITH THE STATE ENVIRONMENTAL QUALITY REVIEW ACT SHALL BE REQUIRED FOR
39 SUBSEQUENT SITE SPECIFIC ACTIONS IN AREAS DESIGNATED FOR GROWTH OR REDE-
40 VELOPMENT THAT ARE IN CONFORMANCE WITH THE CONDITIONS AND THRESHOLDS
41 ESTABLISHED FOR SUCH ACTIONS IN THE GENERIC ENVIRONMENTAL IMPACT STATE-
42 MENT AND ITS FINDINGS.
43 5. AGRICULTURAL REVIEW AND COORDINATION. A SMART GROWTH PLAN AND ANY
44 AMENDMENTS THERETO, FOR A LOCAL GOVERNMENT CONTAINING ALL OR PART OF AN
45 AGRICULTURAL DISTRICT OR LANDS RECEIVING AGRICULTURAL ASSESSMENTS WITHIN
46 ITS JURISDICTION, SHALL CONTINUE TO BE SUBJECT TO THE PROVISIONS OF
47 ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW RELATING TO
48 THE ENACTMENT AND ADMINISTRATION OF LOCAL LAWS, ORDINANCES, RULES OR
49 REGULATIONS. A SMART GROWTH PLAN OR AMENDMENT THERETO, SHALL TAKE INTO
50 CONSIDERATION APPLICABLE COUNTY AND FARMLAND PROTECTION PLANS AS CREATED
51 UNDER ARTICLE TWENTY-FIVE-AAA OF THE AGRICULTURE AND MARKETS LAW.
52 S 50-0109. SMART GROWTH COMPACT.
53 1. SMART GROWTH COMPACT AREAS SHALL BE GEOGRAPHIC REGIONS OR AREAS
54 BASED ON ENVIRONMENTAL, ECONOMIC AND SOCIAL FACTORS AGREED UPON PURSUANT
55 TO ARTICLE FIVE-G OF THE GENERAL MUNICIPAL LAW AGREEMENT BY THE CHIEF

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1 EXECUTIVE OFFICER OF TWO OR MORE MUNICIPALITIES. A COMPACT AREA MUST
2 INCLUDE AT LEAST TWO MUNICIPALITIES.
3 2. FOR EACH SMART GROWTH COMPACT AREA, A COMPACT COUNCIL SHALL BE
4 ESTABLISHED TO CONSIST OF THE FOLLOWING VOTING MEMBERS: THE MAYOR,
5 SUPERVISOR, COUNTY EXECUTIVE OR OTHER CHIEF EXECUTIVE OFFICER FROM EACH
6 COUNTY, CITY, TOWN AND VILLAGE LOCATED IN WHOLE OR IN PART WITHIN THE
7 BOUNDARY OF THE COMPACT AREA. EACH EX-OFFICIO MEMBER MAY APPOINT A
8 DESIGNATED REPRESENTATIVE, BY OFFICIAL AUTHORITY FILED WITH THE COUNCIL,
9 TO EXERCISE HIS OR HER POWERS AND PERFORM HIS OR HER DUTIES, INCLUDING
10 THE RIGHT TO VOTE, ON THE COUNCIL. THE COUNCIL SHALL ELECT ONE OF ITS
11 MEMBERS AS CHAIRPERSON. A MAJORITY SHALL CONSTITUTE A QUORUM FOR THE
12 TRANSACTION OF ANY BUSINESS OR THE EXERCISE OF ANY POWER OR FUNCTION OF
13 THE COUNCIL. AN AFFIRMATIVE VOTE OF A MAJORITY SHALL BE REQUIRED TO PASS

14 A RESOLUTION OR OTHERWISE EXERCISE ANY FUNCTIONS OR POWERS OF THE COUN-
15 CIL, EXCEPT THE ADOPTION OF THE SMART GROWTH COMPACT PLAN WHICH REQUIRES
16 A UNANIMOUS VOTE OF THE COUNCIL. THE COUNCIL SHALL HOLD ITS INITIAL
17 MEETING WITHIN THIRTY DAYS OF THE EXECUTION OF THE AGREEMENT DESIGNATING
18 THE COMPACT AREA FOR WHICH THE COUNCIL WAS ESTABLISHED.

19 3. EVERY STATE, REGIONAL AND LOCAL AGENCY AND PUBLIC CORPORATION
20 HAVING JURISDICTION OF LAND OR WATER, HOUSING, ECONOMIC DEVELOPMENT,
21 TRANSPORTATION, PARKS OR OTHER PUBLIC FACILITIES OR INFRASTRUCTURE WITH-
22 IN THE COMPACT AREA OR OF PROGRAMS, PROJECTS AND/OR PLANS RELATING TO
23 THE PURPOSES AND GOALS OF THIS ARTICLE SHALL, TO THE FULLEST EXTENT
24 PRACTICABLE, OFFER FULL COOPERATION AND ASSISTANCE TO THE COUNCIL IN
25 CARRYING OUT THE PROVISIONS OF THIS ARTICLE.

26 4. EACH COUNCIL SHALL HAVE THE POWER:

27 A. TO PREPARE, ADOPT, ENFORCE AND ENSURE IMPLEMENTATION OF THE SMART
28 GROWTH PLAN, AFTER CONVENING A SERIES OF CONSENSUS-BUILDING MEETINGS AND
29 TECHNICAL SESSIONS AS PROVIDED IN PARAGRAPH A OF SUBDIVISION THREE OF
30 SECTION 50-0107 OF THIS ARTICLE;

31 B. TO SUE AND BE SUED;

32 C. TO MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS NECESSARY
33 OR CONVENIENT FOR THE EXERCISE OF ITS POWERS AND FUNCTIONS UNDER THIS
34 ARTICLE;

35 D. TO ESTABLISH AND MAINTAIN SUCH FACILITIES AS MAY BE NECESSARY FOR
36 THE TRANSACTING OF ITS BUSINESS;

37 E. TO APPOINT AN EXECUTIVE OFFICER, OFFICERS, AGENTS, EMPLOYEES, AND
38 PRESCRIBE THEIR DUTIES AND QUALIFICATIONS AND FIX THEIR COMPENSATION;

39 F. TO UTILIZE TO THE EXTENT FEASIBLE THE STAFF AND FACILITIES OF
40 EXISTING STATE AND COUNTY AGENCIES, PURSUANT TO AN AGREEMENT TO BE MADE
41 BY THE STATE OR BY THE APPROPRIATE COUNTY;

42 G. TO HOLD HEARINGS IN THE EXERCISE OF ITS POWERS, FUNCTIONS AND
43 DUTIES PROVIDED FOR BY THIS ARTICLE;

44 H. TO CONTRACT FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE;

45 I. TO CONTRACT FOR AND TO ACCEPT ANY ASSISTANCE, INCLUDING BUT NOT
46 LIMITED TO GIFTS, GRANTS OR LOANS OF FUNDS OR OF PROPERTY FROM THE
47 FEDERAL GOVERNMENT OR ANY AGENCY OR INSTRUMENTALITY THEREOF, OR FROM ANY
48 AGENCY OR INSTRUMENTALITY OF THE STATE, OR FROM ANY OTHER PUBLIC OR
49 PRIVATE SOURCE AND TO COMPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE,
50 WITH THE TERMS AND CONDITIONS THEREOF;

51 J. TO PROVIDE SCIENTIFIC AND TECHNICAL ASSISTANCE OR TO MAKE GRANTS TO
52 MUNICIPALITIES IN THE COMPACT AREA FOR REVISIONS OF LOCAL COMPREHENSIVE
53 PLANS, OR THE RELEVANT LAND USE REGULATIONS DESIGNED TO BRING SUCH PLANS
54 AND LAND USE REGULATIONS INTO CONFORMANCE WITH THE COMPACT PLAN PREPARED
55 AND ADOPTED BY THE COUNCIL. THE COUNCIL MAY MAKE SUCH GRANTS FROM ANY

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1 FUNDS WHICH MAY BE APPROPRIATED OR OTHERWISE MADE AVAILABLE TO IT FOR
2 SUCH PURPOSE;

3 K. TO ESTABLISH AND MAINTAIN AN EDUCATION AND OUTREACH PROGRAM RELAT-
4 ING TO THE COUNCIL'S WORK;

5 L. TO CONVENE CONFERENCES, SEMINARS, MEETINGS, TECHNICAL SESSIONS ON
6 ITS OWN OR IN COORDINATION WITH FEDERAL, STATE, COUNTY, TOWN OR PRIVATE
7 ORGANIZATIONS AS DEEMED NECESSARY RELATIVE TO ITS RESPONSIBILITIES;

8 M. TO HAVE AND EXERCISE SUCH OTHER INCIDENTAL AND USUAL POWERS AS ARE
9 NECESSARY AND APPROPRIATE TO CARRY OUT ITS DUTIES.

10 5. WITHIN FIFTEEN MONTHS OF ITS FIRST MEETING, A COUNCIL SHALL PREPARE
11 OR CAUSE TO BE PREPARED A DRAFT SMART GROWTH PLAN FOR ITS DESIGNATED
12 COMPACT AREA. EACH SMART GROWTH PLAN SHALL MEET THE STANDARDS AND
13 REQUIREMENTS OF A SMART GROWTH PLAN PURSUANT TO THE PROVISIONS OF
14 SECTION 50-0107 OF THIS ARTICLE.

15 6. FOLLOWING THE CONSENSUS-BUILDING MEETINGS AND WITHIN THE FIFTEEN
16 MONTH PERIOD ESTABLISHED THEREFOR, THE COUNCIL SHALL PUBLISH THE DRAFT
17 SMART GROWTH PLAN AND DRAFT GENERIC IMPACT STATEMENT. WITHIN SIX MONTHS
18 OF SUCH PUBLICATION, THE COUNCIL SHALL HOLD PUBLIC INFORMATIONAL MEET-
19 INGS WITH AT LEAST ONE PUBLIC HEARING WITHIN EACH OF THE COUNTIES,
20 CITIES, TOWNS AND VILLAGES WITHIN THE COMPACT AREA. DURING THIS PERIOD
21 THE COUNCIL SHALL RECEIVE AND REVIEW COMMENTS ON THE DRAFT PLAN AND
22 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT FROM STATE AND LOCAL
23 GOVERNMENTS AND THE PUBLIC. WITHIN THREE MONTHS OF THE LAST PUBLIC HEAR-
24 ING REQUIRED BY THIS SECTION, THE COUNCIL SHALL COMPLETE AND RECOMMEND
25 FOR RATIFICATION A FINAL SMART GROWTH PLAN AND FINAL GENERIC ENVIRON-
26 MENTAL IMPACT STATEMENT TO THE LOCAL LEGISLATIVE BODY OF EACH COUNTY,
27 CITY, TOWN AND VILLAGE WITHIN THE COMPACT AREA FOR THEIR RATIFICATION
28 AND ADOPTION OF THE STATEMENT OF FINDINGS PURSUANT TO ARTICLE EIGHT OF
29 THIS CHAPTER. SUCH RATIFICATION AND ADOPTION SHALL REPRESENT COMMITMENT
30 TO IMPLEMENTATION OF THE PROVISIONS CONTAINED THEREIN. UPON RATIFICATION
31 AND ADOPTION BY ALL SUCH LOCAL LEGISLATIVE BODIES, THE COUNCIL ITSELF
32 SHALL FORMALLY ADOPT THE SMART GROWTH PLAN AND GENERIC ENVIRONMENTAL
33 IMPACT STATEMENT, AND SHALL SUBMIT THE PLAN AND GENERIC ENVIRONMENTAL
34 IMPACT STATEMENT TO THE SMART GROWTH REVIEW BOARD FOR CERTIFICATION
35 PURSUANT TO THE PROVISIONS OF SECTION 50-0115 OF THIS ARTICLE.

36 7. WITHIN ONE YEAR AFTER A PLAN HAS BEEN CERTIFIED BY THE SMART GROWTH
37 REVIEW BOARD, EACH CITY LEGISLATIVE BODY, TOWN BOARD AND VILLAGE BOARD
38 WITH JURISDICTION WITHIN THE APPLICABLE COMPACT AREA SHALL ADOPT AND
39 AMEND AS NECESSARY LAND USE REGULATIONS, BY LOCAL LAW OR ORDINANCE, RULE
40 OR REGULATION TO CONFORM ITS LAND USE REGULATIONS TO THE PLAN. SUCH
41 ACTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF ARTICLE EIGHT OF THIS
42 CHAPTER IF IT IS IN CONFORMANCE WITH THE CONDITIONS AND THRESHOLDS OF
43 THE PLAN. AT LEAST SIXTY DAYS BEFORE ADOPTION THEREOF, THE CITY LEGISLA-
44 TIVE BODY, TOWN OR VILLAGE BOARD SHALL SUBMIT THE PROPOSED REGULATIONS
45 TO THE COMPACT COUNCIL FOR ITS REVIEW AND APPROVAL. WITHIN TEN DAYS OF
46 RECEIPT OF SUCH PROPOSED REGULATIONS, THE COUNCIL SHALL REVIEW AND
47 APPROVE SUCH PROPOSED REGULATIONS, OR IF IT DOES NOT APPROVE THEM,
48 RETURN THEM WITH COMMENTS ON WHAT NEEDS TO BE DONE TO MAKE THEM APPROVA-
49 BLE. FOR EACH JURISDICTION, THE PLAN SHALL BE DEEMED TO BE IMPLEMENTED
50 UPON ADOPTION BY THE CITY LEGISLATIVE BODY, TOWN OR VILLAGE BOARD OF
51 APPROVED LAND USE REGULATIONS. UPON RECEIPT OF SUCH APPROVAL, A COUNTY,
52 CITY, TOWN OR VILLAGE SHALL BE DEEMED TO BE A PARTICIPATING COMMUNITY.
53 ONLY A PARTICIPATING COMMUNITY OR A LOCAL GOVERNMENT WITH ITS OWN CERTI-
54 FIED SMART GROWTH PLAN SHALL QUALIFY FOR STATE PRIORITY INCENTIVE FUND-
55 ING UNDER THIS ARTICLE. AFTER CITY, TOWN OR VILLAGE LAND USE REGULATIONS
56 HAVE BEEN APPROVED AND UPON A FINDING BY THE COMPACT COUNCIL THAT A

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1 CITY, TOWN OR VILLAGE HAS CHANGED SUCH REGULATIONS IN A MANNER SUBSTAN-
2 Tially INCONSISTENT WITH THE PLAN OR HAS ADMINISTERED ITS APPROVED LAND
3 USE REGULATIONS IN A MANNER SUBSTANTIALLY INCONSISTENT WITH THE PLAN,
4 THE COMPACT COUNCIL SHALL WITHDRAW APPROVAL OF SUCH LAND USE REGU-
5 LATIONS. SUCH WITHDRAWAL OF APPROVAL SHALL BE MADE NOT BEFORE FOURTEEN
6 DAYS AFTER THE COUNCIL HOLDS A PUBLIC HEARING IN THE AFFECTED CITY, TOWN
7 OR VILLAGE ON THE PROPOSED WITHDRAWAL. NOTICE OF SUCH HEARING SHALL BE
8 PUBLISHED IN A NEWSPAPER HAVING GENERAL CIRCULATION IN THE COMPACT AREA
9 AND NOTICE OF SUCH HEARING SHALL ALSO BE GIVEN BY REGISTERED MAIL TO THE
10 AFFECTED SUPERVISOR OR MAYOR. A CITY, TOWN OR VILLAGE THAT HAS HAD SUCH
11 APPROVAL WITHDRAWN SHALL NO LONGER BE DEEMED TO BE A PARTICIPATING
12 COMMUNITY.

13 8. A COUNCIL SHALL HAVE JURISDICTION TO REVIEW AND APPROVE ALL
14 PROPOSED DEVELOPMENT OUTSIDE OF AREAS DESIGNATED FOR GROWTH OR REDEVEL-

15 OPMENT AND DEVELOPMENTS OF REGIONAL SIGNIFICANCE AS IDENTIFIED IN A PLAN
16 AND PROPOSED DEVELOPMENTS FOUND BY THE COUNCIL AFTER PETITION BY A
17 MEMBER THEREOF TO HAVE SIGNIFICANT ADVERSE IMPACT ON THE PLAN. ANY SUCH
18 MEMBER MAY PETITION THE COUNCIL TO ASSERT REVIEW JURISDICTION OVER A
19 PROPOSED DEVELOPMENT WHICH HAS A SIGNIFICANT ADVERSE IMPACT ON THE GOALS
20 OF THE PLAN. IF THE COUNCIL BY MAJORITY VOTE ASSERTS JURISDICTION, SUCH
21 PROJECT OR ACTION SHALL BE SUBJECT TO REVIEW BY THE COUNCIL. FOR THE
22 PURPOSES OF REVIEW AND IDENTIFICATION OF PROJECTS COMING UNDER THE
23 JURISDICTION OF THE COUNCIL, THE COUNCIL SHALL DESIGNATE THE RESPONSIBLE
24 PLANNING ENTITY OR STAFF FOR THE PURPOSES OF ADVISING THE COUNCIL WITH
25 RESPECT TO SUCH APPLICATIONS OR PROJECTS. TO THE FULLEST EXTENT POSSI-
26 BLE, THE COUNCIL SHALL CONSOLIDATE AND COORDINATE ITS REVIEW WITH THE
27 APPROPRIATE LOCAL GOVERNMENT. AN APPLICANT FOR DEVELOPMENT OUTSIDE AN
28 AREA DESIGNATED FOR GROWTH OR REDEVELOPMENT OR DEVELOPMENT OF REGIONAL
29 SIGNIFICANCE SHALL APPLY TO THE COUNCIL FOR APPROVAL OF THE DEVELOPMENT.
30 APPLICATIONS SHALL BE MADE TO THE COUNCIL ON FORMS AND IN SUCH MANNER AS
31 THE PLAN AND COUNCIL SHALL DESIGNATE. AFTER HOLDING A PUBLIC HEARING
32 WITHIN THE CITY, TOWN OR VILLAGE WHERE SUCH DEVELOPMENT IS PROPOSED TO
33 BE LOCATED, ALL COMPLETED APPLICATIONS SHALL, UNLESS MUTUALLY AGREED
34 OTHERWISE, BE ACTED UPON WITHIN ONE HUNDRED TWENTY DAYS.

35 9. SUBSEQUENT TO THE ADOPTION OF A PLAN, THE PROVISIONS OF ANY OTHER
36 LAW, ORDINANCE, RULE OR REGULATION TO THE CONTRARY NOTWITHSTANDING, NO
37 APPLICATION FOR DEVELOPMENT WITHIN THE COMPACT AREA SUBJECT TO THE PLAN
38 SHALL BE APPROVED BY ANY MUNICIPALITY OR COUNTY OR AGENCY THEREOF OR THE
39 COUNCIL, AND NO STATE APPROVAL, CERTIFICATE, LICENSE, CONSENT, PERMIT,
40 OR FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF ANY STRUCTURE OR THE
41 DISTURBANCE OF ANY LAND WITHIN SUCH AREA SHALL BE GRANTED, UNLESS SUCH
42 APPROVAL OR GRANT CONFORMS TO THE PROVISIONS OF SUCH PLAN; PROVIDED,
43 HOWEVER, THAT THE COUNCIL BY MAJORITY VOTE IS HEREBY AUTHORIZED TO WAIVE
44 STRICT COMPLIANCE WITH SUCH PLAN OR WITH ANY ELEMENT OR STANDARD
45 CONTAINED THEREIN, UPON FINDING THAT SUCH WAIVER IS NECESSARY TO ALLEVI-
46 ATE EXTRAORDINARY HARDSHIP OR MEET COMPELLING PUBLIC NEED.

47 10. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS IN ARTICLE EIGHT OF
48 THIS CHAPTER, WITHIN PARTICIPATING COMMUNITIES, ACTIONS WHOLLY WITHIN
49 THE AREAS DESIGNATED FOR GROWTH OR REDEVELOPMENT IN THE COMPACT AREA IN
50 CONFORMANCE WITH THE PLAN AND THE GENERIC ENVIRONMENTAL IMPACT STATEMENT
51 THEREOF, SHALL REQUIRE NO FURTHER ENVIRONMENTAL IMPACT STATEMENT WITH
52 RESPECT TO IMPACTS ADDRESSED IN SUCH GENERIC ENVIRONMENTAL IMPACT STATE-
53 MENT. FURTHER PROJECT-SPECIFIC COMPLIANCE WITH ARTICLE EIGHT OF THIS
54 CHAPTER MAY BE REQUIRED IN THE FORM OF A SUPPLEMENTAL ENVIRONMENTAL
55 IMPACT STATEMENT.

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1 11. EACH PARTICIPATING COMMUNITY SHALL BE DEEMED TO BE A MUNICIPALITY
2 THAT HAS ADOPTED A SMART GROWTH PLAN PURSUANT TO THIS ARTICLE.

3 S 50-0111. SMART GROWTH REVIEW BOARD.

4 1. THERE IS HEREBY ESTABLISHED A SMART GROWTH REVIEW BOARD. SUCH BOARD
5 SHALL BE COMPOSED OF MEMBERS WHO SHALL INCLUDE THE SECRETARY OF STATE,
6 THE COMMISSIONER, THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION,
7 THE SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT OF THE SENATE.

8 2. A MEMBER MAY APPOINT A DESIGNATED REPRESENTATIVE, WHO SHALL SERVE
9 AT THE PLEASURE OF THE APPOINTING MEMBER, TO EXERCISE HER OR HIS POWERS
10 AND PERFORM HER OR HIS DUTIES, INCLUDING THE RIGHT TO VOTE, ON THE
11 BOARD. THE SECRETARY OF STATE SHALL SERVE AS CHAIRPERSON. A MAJORITY
12 SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY BUSINESS OR THE
13 EXERCISE OF ANY POWER OR FUNCTION OF THE BOARD, EXCEPT THE CERTIFICATION
14 OF A SMART GROWTH PLAN WHICH REQUIRES A UNANIMOUS VOTE OF THE BOARD.

15 3. IN THE EVENT OF A VACANCY OCCURRING IN THE OFFICE OF ANY MEMBER,

16 SUCH VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINT-
17 MENT.

18 4. THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, EXCEPT
19 THAT MEMBERS SHALL BE ALLOWED THEIR NECESSARY AND ACTUAL EXPENSES
20 INCURRED IN THE PERFORMANCE OF THEIR DUTIES UNDER THIS ARTICLE.

21 5. THE BOARD SHALL MEET AT THE CALL OF THE CHAIRPERSON AND SHALL MEET
22 AT LEAST QUARTERLY.

23 6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF ANY GENERAL, SPECIAL
24 OR LOCAL LAW, ORDINANCE, RESOLUTION OR CHARTER, NO OFFICER, MEMBER OR
25 EMPLOYEE OF THE STATE, THE CITY, ANY OTHER MUNICIPALITY, OR ANY PUBLIC
26 BENEFIT CORPORATION, SHALL BE DEEMED TO HAVE FORFEITED OR SHALL FORFEIT
27 HIS OR HER OFFICE OR EMPLOYMENT OR ANY BENEFITS PROVIDED UNDER THE
28 RETIREMENT AND SOCIAL SECURITY LAW BY REASON OF HIS OR HER ACCEPTANCE OF
29 APPOINTMENT AS A MEMBER, OFFICER, AGENT OR EMPLOYEE OF THE BOARD, NOR
30 SHALL SERVICE AS SUCH MEMBER, OFFICER, AGENT OR EMPLOYEE BE DEEMED
31 INCOMPATIBLE OR IN CONFLICT WITH SUCH OFFICE, MEMBERSHIP OR EMPLOYMENT.

32 S 50-0113. POWERS AND DUTIES.

33 1. THE SMART GROWTH REVIEW BOARD SHALL HAVE THE POWER TO:

34 A. REVIEW PLAN APPLICATIONS;

35 B. CERTIFY OR WITHDRAW CERTIFICATION OF SMART GROWTH PLANS;

36 C. SUE AND BE SUED;

37 D. MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS NECESSARY OR
38 CONVENIENT FOR THE EXERCISE OF ITS POWERS AND FUNCTIONS UNDER THIS ARTI-
39 CLE;

40 E. ESTABLISH AND MAINTAIN SUCH FACILITIES AS MAY BE NECESSARY FOR THE
41 TRANSACTING OF ITS BUSINESS;

42 F. APPOINT AN EXECUTIVE OFFICER, OFFICERS, AGENTS, EMPLOYEES, AND
43 PRESCRIBE THEIR DUTIES AND QUALIFICATIONS AND FIX THEIR COMPENSATION;

44 G. UTILIZE TO THE EXTENT FEASIBLE THE STAFF AND FACILITIES OF EXISTING
45 STATE AND COUNTY AGENCIES, PURSUANT TO AN AGREEMENT TO BE MADE BY THE
46 STATE;

47 H. CONTRACT FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE;

48 I. CONTRACT FOR AND TO ACCEPT ANY ASSISTANCE, INCLUDING BUT NOT
49 LIMITED TO GIFTS, GRANTS OR LOANS OF FUNDS OR OF PROPERTY FROM THE
50 FEDERAL GOVERNMENT OR ANY AGENCY OR INSTRUMENTALITY THEREOF, OR FROM ANY
51 AGENCY OR INSTRUMENTALITY OF THE STATE, OR FROM ANY OTHER PUBLIC OR
52 PRIVATE SOURCE AND TO COMPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE,
53 WITH THE TERMS AND CONDITIONS THEREOF;

54 J. REPORT PERIODICALLY TO THE LEGISLATURE AND THE SMART GROWTH LOCAL
55 ASSISTANCE OFFICE ON THE CONDUCT OF ITS ACTIVITIES NOT LESS THAN ONCE A
56 YEAR; AND

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1 K. HAVE AND EXERCISE SUCH OTHER INCIDENTAL AND USUAL POWERS AS ARE
2 NECESSARY AND APPROPRIATE TO CARRY OUT ITS DUTIES.

3 2. THE BOARD SHALL PREPARE APPLICATION FORMS.

4 3. THE BOARD SHALL NOT BE AUTHORIZED TO ISSUE BONDS, NOTES OR OTHER
5 SIMILAR OBLIGATIONS, WHETHER OR NOT NEGOTIABLE OR TO CONTRACT TO PAY
6 DEBT SERVICE ON SUCH OBLIGATIONS ISSUED BY ANY OTHER ENTITY. THE BOARD
7 SHALL NOT HAVE THE POWER OF EMINENT DOMAIN AND SHALL NOT BE AUTHORIZED
8 TO ACQUIRE OR HOLD TITLE TO REAL PROPERTY. THE BOARD SHALL NOT PROVIDE
9 FINANCIAL ASSISTANCE TO ATTRACT, EXPAND OR RETAIN BUSINESS.

10 S 50-0115. CERTIFICATION PROCEDURE.

11 1. THE BOARD SHALL REVIEW APPLICATIONS FOR CERTIFICATION WHICH SHALL
12 INCLUDE A COMPLETED APPLICATION FORM AND A COPY OF A SMART GROWTH PLAN.

13 2. THE BOARD SHALL HAVE NINETY DAYS TO ISSUE ITS CERTIFICATION OR
14 DISAPPROVAL. WHEN DISAPPROVING AN APPLICATION, THE BOARD SHALL PROVIDE
15 AN EXPLANATION IN WRITING.

16 3. WITHIN ONE YEAR AFTER CERTIFICATION HAS BEEN GRANTED, THE MUNICI-
17 PALITY SHALL PROVIDE DOCUMENTATION TO THE BOARD MEMBERS THAT LAND USE
18 REGULATIONS ARE CONSISTENT WITH THE SMART GROWTH PLAN.

19 4. THE BOARD SHALL WITHDRAW CERTIFICATION OF A PLAN IF, ON ITS OWN OR
20 UPON NOTIFICATION BY A MUNICIPALITY OR OTHER PERSON, IT FINDS THAT THE
21 PLAN OR ANY LAND USE REGULATION NO LONGER COMPLIES WITH SMART GROWTH
22 REQUIREMENTS OR PRINCIPLES OR THAT THERE HAS BEEN A VIOLATION OF SUCH
23 PLAN OR ANY LAND USE REGULATION.

24 S 50-0117. STATE CONSISTENCY AND INCENTIVES.

25 1. EVERY STATE AGENCY, PUBLIC BENEFIT CORPORATION AND AUTHORITY
26 CONDUCTING, FUNDING OR APPROVING ACTIVITIES AFFECTING LOCAL PLANNING
27 AND/OR INFRASTRUCTURE SHALL:

28 A. CONDUCT OR SUPPORT ITS ACTIVITIES IN A MANNER WHICH IS, TO THE
29 MAXIMUM EXTENT PRACTICABLE, CONSISTENT WITH SMART GROWTH PRINCIPLES AS
30 DEFINED IN THIS ARTICLE AND SHALL CONSULT AND COOPERATE WITH, AND COOR-
31 DINATE ITS ACTIVITIES WITH THE SMART GROWTH LOCAL ASSISTANCE OFFICE
32 CREATED PURSUANT TO SECTION ONE HUNDRED SIXTY-AAA OF THE EXECUTIVE LAW;

33 B. REPORT TO THE SMART GROWTH LOCAL ASSISTANCE OFFICE CREATED PURSUANT
34 TO SECTION ONE HUNDRED SIXTY-AAA OF THE EXECUTIVE LAW FOR THE PURPOSE OF
35 IDENTIFYING ALL STATE CONTROLLED AND ADMINISTERED FUNDS WHICH MAY BE
36 USED AS INCENTIVES TO ENCOURAGE PARTICIPATION IN SMART GROWTH PLANS; AND

37 C. GIVE PRIORITY IN FUNDING, TO THE FULLEST EXTENT PRACTICABLE, TO
38 MUNICIPALITIES WHICH HAVE SMART GROWTH PLANS CERTIFIED BY THE BOARD.

39 2. SPECIFIC INCENTIVES AVAILABLE TO LOCAL GOVERNMENTS WITH CERTIFIED
40 SMART GROWTH PLANS SHALL INCLUDE, BUT NOT BE LIMITED TO:

41 A. PRIORITY STATUS FOR OPEN SPACE LAND ACQUISITION AND EASEMENTS BY
42 THE DEPARTMENT OR THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVA-
43 TION IN AREAS LOCATED OUTSIDE GROWTH OR REDEVELOPMENT AREAS IN CERTIFIED
44 SMART GROWTH PLANS PURSUANT TO SECTIONS 54-0303 AND 56-0307 OF THIS
45 CHAPTER;

46 B. RESTRICTION ON INDUSTRIAL DEVELOPMENT AUTHORITY PROJECT FUNDING TO
47 LOCAL GOVERNMENTS WHICH HAVE CERTIFIED SMART GROWTH PLANS, WHERE A MUNI-
48 CIPALITY WITHIN AN INDUSTRIAL DEVELOPMENT AUTHORITY'S JURISDICTION HAS
49 APPLIED FOR AND RECEIVED SMART GROWTH PLAN CERTIFICATION PURSUANT TO
50 SECTION EIGHT HUNDRED SIXTY-TWO OF THE GENERAL MUNICIPAL LAW;

51 C. ENERGY ASSISTANCE PURSUANT TO SECTION ONE THOUSAND FIVE AND ONE
52 THOUSAND EIGHT HUNDRED FIFTY-FOUR OF THE PUBLIC AUTHORITIES LAW;

53 D. PRIORITY FUNDING FOR AGRICULTURAL PROTECTION PURSUANT TO SECTION
54 THREE HUNDRED TWENTY-FIVE OF THE AGRICULTURE AND MARKETS LAW;

55 E. WITHIN THE LIMITS OF ANY APPROPRIATIONS THEREFOR, GRANTS TO ANY
56 LOCAL GOVERNMENT AGENCY FOR DESIGN OR OTHER ACTIVITIES TO FACILITATE

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1 CONSTRUCTION PROJECTS PROVIDED FOR IN A CERTIFIED SMART GROWTH PLAN,
2 PROVIDED THAT SUCH GRANT SHALL NOT EXCEED TEN PERCENT OF THE ESTIMATED
3 COST OF SUCH CONSTRUCTION PROJECT;

4 F. WITHIN THE LIMITS OF ANY APPROPRIATIONS THEREFOR, GRANTS FOR THE
5 PURCHASE OF HOMES IN OLDER URBAN NEIGHBORHOODS, HOMES EXISTING AS OF THE
6 EFFECTIVE DATE OF THIS ARTICLE AND HOMES WITHIN CLOSE PROXIMITY TO PLAC-
7 ES OF WORK;

8 G. THERE MAY BE DEFENSE BY AND SHALL BE INDEMNITY FROM THE STATE IN
9 THE EVENT OF LEGAL ACTIONS OR PROCEEDINGS BROUGHT AGAINST ANY LOCAL
10 GOVERNMENT, COUNCIL OR ITS AGENTS, SERVANTS, OFFICIALS OR EMPLOYEES THAT
11 MAY RESULT FROM THE IMPLEMENTATION OF A CERTIFIED SMART GROWTH PLAN.
12 INDEMNITY SHALL NOT APPLY TO ANY SUCH CLAIM IN WHICH A FINAL COURT
13 DETERMINATION RESULTS IN A FINDING OF INCONSISTENCY WITH A CERTIFIED
14 SMART GROWTH PLAN OR INTENTIONAL WRONGDOING, RECKLESSNESS, OR AN UNLAW-
15 FUL DISCRIMINATORY PRACTICE INCLUDING THE FINDING THAT ANY LAND USE

16 CONTROL WAS INTENDED TO EXCLUDE A PARTICULAR GROUP OR INDIVIDUAL, OR
17 GROSS NEGLIGENCE ON THE PART OF SUCH MUNICIPALITY OR ITS AGENTS, SERV-
18 ANTS, OFFICIALS, OR EMPLOYEES. ACTIONS OR PROCEEDINGS BROUGHT UNDER
19 SUBDIVISIONS TWO, TWO-A, THREE-B, FOUR, PARAGRAPHS (A) AND (B) OF SUBDI-
20 VISION FIVE AND SUBDIVISIONS SIX, SEVEN, FOURTEEN, AND EIGHTEEN OF
21 SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND 42 U.S.C.
22 SECTIONS 1981, 1983, AND 1988 SHALL BE INDEMNIFIED BY THE STATE ONLY SO
23 FAR AS THE GRIEVANCE ALLEGED IN SUCH ACTION OR PROCEEDING WAS THE RESULT
24 OF AN ACT CONSISTENT WITH THIS ARTICLE OR THE PLAN. SUCH INDEMNITY SHALL
25 BE CONDITIONED UPON (I) THE DELIVERY BY THE GOVERNING BODY OR ITS AGENT
26 AGAINST WHOM THE LEGAL ACTION OR PROCEEDING WAS COMMENCED TO THE ATTOR-
27 NEY GENERAL OR AN ASSISTANT ATTORNEY GENERAL AT AN OFFICE OF THE DEPART-
28 MENT OF LAW IN THE STATE THE ORIGINAL OR A COPY OF ANY SUMMONS,
29 COMPLAINT, PROCESS, NOTICE, DEMAND OR PLEADING WITHIN FIFTEEN DAYS AFTER
30 SUCH DOCUMENT IS SERVED UPON SUCH GOVERNING BODY OR ITS AGENT, AND (II)
31 THE FULL COOPERATION OF THE GOVERNING BODY OR ITS AGENTS AGAINST WHOM
32 THE ACTION OR PROCEEDING WAS COMMENCED IN THE DEFENSE OF SUCH ACTION OR
33 PROCEEDING AND IN DEFENSE OF ANY ACTION OR PROCEEDING AGAINST THE STATE
34 BASED UPON THE SAME ACT OR OMISSION, AND IN THE PROSECUTION OF ANY
35 APPEAL. THERE SHALL BE NO INDEMNITY IN THE EVENT OF A SETTLEMENT BETWEEN
36 OR AMONG THE PARTIES TO SUCH LEGAL ACTION OR PROCEEDING IN THOSE
37 INSTANCES IN WHICH THE ATTORNEY GENERAL IS NOT PROVIDING THE DEFENSE FOR
38 THE GOVERNING BODY OR ITS AGENTS, UNLESS SUCH SETTLEMENT IS APPROVED BY
39 THE ATTORNEY GENERAL.

40 3. NOTHING IN THIS ARTICLE SHALL BE DEEMED OR IMPLEMENTED IN SUCH A
41 WAY AS TO ADVERSELY AFFECT, IMPAIR OR SUPERSEDE THE FUNDING OR ELIGIBIL-
42 ITY FOR FUNDING OF ANY CITY WITH A POPULATION OF ONE MILLION OR MORE.
43 FOR PURPOSES OF CALCULATING PRIORITY FINANCIAL ASSISTANCE FOR PROPOSED
44 PROJECTS IN CERTIFIED SMART GROWTH PLANS, CITIES WITH A POPULATION OF
45 ONE MILLION OR MORE SHALL BE ELIGIBLE FOR AND RECEIVE FUNDING AS IF SUCH
46 PRIORITIZATION HAD NOT BEEN MADE.

47 S 50-0119. MUNICIPAL AUTHORIZATION INCENTIVES.

48 IN ADDITION TO EXISTING POWERS AND AUTHORITIES TO PLAN OR REGULATE BY
49 ZONING, A LOCAL GOVERNMENT INCLUDING A PARTICIPATING COMMUNITY WITH A
50 CERTIFIED SMART GROWTH PLAN MAY, AS PART OF A ZONING ORDINANCE OR LOCAL
51 LAW:

52 1. ENACT REQUIREMENTS FOR THE ESTABLISHMENT OF MIXED-USE DISTRICTS.
53 SUCH REQUIREMENTS SHALL BE FOR THE PURPOSES OF PERMITTING FLEXIBILITY IN
54 THE REGULATION OF LAND DEVELOPMENT SO AS TO COMPLY WITH A CERTIFIED
55 SMART GROWTH PLAN;

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1 2. ADOPT, AMEND AND ENFORCE LOCAL LAWS, RULES AND REGULATIONS NOT
2 INCONSISTENT WITH THE LAWS OF THIS STATE OR THE UNITED STATES OR WITH
3 THE CERTIFIED SMART GROWTH PLAN, WITH RESPECT TO THE RESTRICTION AND
4 REGULATION OF THE MANNER OF CONSTRUCTION AND LOCATION OF BATHHOUSES,
5 MOORINGS AND DOCKS IN ANY WATERS WITHIN OR BOUNDING THE RESPECTIVE MUNI-
6 CIPALITY TO A DISTANCE OF FIFTEEN HUNDRED FEET FROM THE SHORELINE.
7 NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO AFFECT, IMPAIR OR SUPER-
8 SEDE THE PROVISIONS OF ANY CHARTER, LOCAL LAW, RULE OR OTHER LOCAL
9 REQUIREMENTS AND PROCEDURES HERETOFORE OR HEREAFTER ADOPTED BY SUCH
10 LOCAL LEGISLATIVE BODY, INCLUDING BUT NOT LIMITED TO, ANY SUCH
11 PROVISIONS RELATING TO THE ZONING AND USE OF LAND OR ANY WATERS WITHIN
12 OR BOUNDING SUCH LOCAL LEGISLATIVE BODY TO A DISTANCE OF FIFTEEN HUNDRED
13 FEET FROM THE SHORELINE; AND

14 3. OFFER ENHANCED BUSINESS INVESTMENT TAX EXEMPTIONS PURSUANT TO
15 SECTION FOUR HUNDRED EIGHTY-FIVE-B OF THE REAL PROPERTY TAX LAW FOR
16 CONSTRUCTION, ALTERATION, INSTALLATION OR IMPROVEMENT IN GROWTH OR REDE-

17 VELOPMENT AREAS FOR THE PURPOSE OF COMMERCIAL, BUSINESS OR INDUSTRIAL
18 ACTIVITY.

19 S 3. Section 54-0303 of the environmental conservation law is amended
20 by adding a new subdivision 8 to read as follows:

21 8. IN EVALUATING APPLICATIONS FOR OPEN SPACE CONSERVATION PROJECTS,
22 THE COMMISSIONER AND THE COMMISSIONER OF THE OFFICE OF PARKS, RECREATION
23 AND HISTORIC PRESERVATION SHALL GRANT A PREFERENCE TO ANY PROJECT IDENTI-
24 FIED AS PART OF A PRESERVATION AREA UNDER A CERTIFIED SMART GROWTH
25 PLAN PURSUANT TO ARTICLE FIFTY OF THIS CHAPTER.

26 S 4. Section 56-0307 of the environmental conservation law is amended
27 by adding a new subdivision 5-a to read as follows:

28 5-A. IN EVALUATING APPLICATIONS FOR OPEN SPACE CONSERVATION PROJECTS,
29 THE COMMISSIONER AND THE COMMISSIONER OF THE OFFICE OF PARKS, RECREATION
30 AND HISTORIC PRESERVATION SHALL GRANT A PREFERENCE TO ANY PROJECT IDENTI-
31 FIED AS PART OF A PRESERVATION AREA UNDER A CERTIFIED SMART GROWTH
32 PLAN PURSUANT TO ARTICLE FIFTY OF THIS CHAPTER.

33 S 5. Section 862 of the general municipal law is amended by adding a
34 new subdivision 4 to read as follows:

35 4. IF ANY MUNICIPALITY WITHIN THE GEOGRAPHIC LIMITS OF THE AGENCY HAS
36 ADOPTED A CERTIFIED SMART GROWTH PLAN PURSUANT TO ARTICLE FIFTY OF THE
37 ENVIRONMENTAL CONSERVATION LAW, NO FINANCIAL ASSISTANCE OF THE AGENCY
38 SHALL BE USED WITH RESPECT TO ANY PROJECT LOCATED WITHIN ANY MUNICI-
39 PALITY THAT HAS NOT ADOPTED A CERTIFIED SMART GROWTH PLAN, AND FINANCIAL
40 ASSISTANCE OF THE AGENCY SHALL BE USED ONLY WITH RESPECT TO PROJECTS
41 LOCATED WITHIN AREAS IDENTIFIED IN A SMART GROWTH PLAN AS GROWTH OR
42 REDEVELOPMENT AREAS WITHIN WHICH PROJECTS ARE ELIGIBLE FOR ASSISTANCE
43 FROM THE AGENCY.

44 S 6. The opening paragraph of section 862 of the general municipal law
45 is designated subdivision 1 and a new subdivision 2 is added to read as
46 follows:

47 2. IF ANY MUNICIPALITY WITHIN THE GEOGRAPHIC LIMITS OF THE AGENCY HAS
48 A CERTIFIED SMART GROWTH PLAN PURSUANT TO ARTICLE FIFTY OF THE ENVIRON-
49 MENTAL CONSERVATION LAW, NO FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE
50 USED WITH RESPECT TO ANY PROJECT LOCATED WITHIN ANY MUNICIPALITY WITHOUT
51 A CERTIFIED SMART GROWTH PLAN, AND FINANCIAL ASSISTANCE OF THE AGENCY
52 SHALL BE USED ONLY WITH RESPECT TO PROJECTS LOCATED WITHIN AREAS IDENTI-
53 FIED IN A SMART GROWTH PLAN AS GROWTH OR REDEVELOPMENT AREAS WITHIN
54 WHICH PROJECTS ARE ELIGIBLE FOR ASSISTANCE FROM THE AGENCY.

55 S 7. Section 1005 of the public authorities law is amended by adding a
56 new subdivision 15 to read as follows:

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1 15. TO PROVIDE FINANCIAL ASSISTANCE FOR THE INSTALLATION OF ENERGY
2 EFFICIENCY MEASURES AND/OR INNOVATIVE ENERGY PRODUCTION TECHNOLOGIES FOR
3 STRUCTURES AND PROCESSES LOCATED WITHIN GROWTH AND REDEVELOPMENT AREAS
4 IDENTIFIED IN AN APPROVED SMART GROWTH PLAN PURSUANT TO ARTICLE FIFTY OF
5 THE ENVIRONMENTAL CONSERVATION LAW.

6 S 8. Paragraph (c) of subdivision 2 of section 325 of the agriculture
7 and markets law, as added by chapter 413 of the laws of 1996, is amended
8 to read as follows:

9 (c) In evaluating applications for funding, the commissioner shall
10 give priority to projects intended to preserve viable agricultural land
11 as defined in section three hundred one of this chapter; THAT ARE IN A
12 PRESERVATION AREA UNDER A CERTIFIED SMART GROWTH PLAN PURSUANT TO ARTI-
13 CLE FIFTY OF THE ENVIRONMENTAL CONSERVATION LAW; that are in areas
14 facing significant development pressure; and that serve as a buffer for
15 a significant natural public resource containing important ecosystem or
16 habitat characteristics.

17 S 9. Paragraph (a) of subdivision 2 and subdivision 12 of section
18 485-b of the real property tax law, paragraph (a) of subdivision 2 as
19 amended by chapter 625 of the laws of 1995 and subdivision 12 as added
20 by chapter 305 of the laws of 1994, are amended to read as follows:

21 (a) (i) Such real property THAT IS LOCATED IN A GROWTH OR REDEVELOP-
22 MENT AREA OF A SMART GROWTH PLAN CERTIFIED PURSUANT TO ARTICLE FIFTY OF
23 THE ENVIRONMENTAL CONSERVATION LAW shall be exempt for a period of one
24 year to the extent of {fifty} SEVENTY-FIVE per centum of the increase in
25 assessed value thereof attributable to such construction, alteration,
26 installation or improvement and for an additional period of nine years
27 provided, however, that the extent of such exemption shall be decreased
28 by five per centum AFTER THE SECOND AND NINTH YEARS AND TEN PER CENTUM
29 each year during such {additional} period of nine years and such
30 exemption shall be computed with respect to the "exemption base." The
31 exemption base shall be the increase in assessed value as determined in
32 the initial year of such ten year period following the filing of an
33 original application, except as provided in subparagraph {(ii)} (III) of
34 this paragraph.

35 (ii) SUCH REAL PROPERTY LOCATED IN A COUNTY, CITY, TOWN OR VILLAGE
36 WITH NO SUCH CERTIFIED SMART GROWTH PLAN SHALL BE EXEMPT FOR A PERIOD OF
37 ONE YEAR TO THE EXTENT OF FIFTY PER CENTUM OF THE INCREASE IN ASSESSED
38 VALUE THEREOF ATTRIBUTABLE TO SUCH CONSTRUCTION, ALTERATION, INSTALLA-
39 TION OR IMPROVEMENT AND FOR AN ADDITIONAL PERIOD OF NINE YEARS PROVIDED,
40 HOWEVER, THAT THE EXTENT OF SUCH EXEMPTION SHALL BE DECREASED BY FIVE
41 PER CENTUM EACH YEAR DURING SUCH ADDITIONAL PERIOD OF NINE YEARS AND
42 SUCH EXEMPTION SHALL BE COMPUTED WITH RESPECT TO THE "EXEMPTION BASE."
43 THE EXEMPTION BASE SHALL BE THE INCREASE IN ASSESSED VALUE AS DETERMINED
44 IN THE INITIAL YEAR OF SUCH TEN YEAR PERIOD FOLLOWING THE FILING OF AN
45 ORIGINAL APPLICATION, EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
46 PARAGRAPH.

47 (III) In any year in which a change in level of assessment of fifteen
48 percent or more is certified for a final assessment roll pursuant to the
49 rules of the state board, the exemption base shall be multiplied by a
50 fraction, the numerator of which shall be the total assessed value of
51 the parcel on such final assessment roll (after accounting for any phys-
52 ical or quantity changes to the parcel since the immediately preceding
53 assessment roll), and the denominator of which shall be the total
54 assessed value of the parcel on the immediately preceding final assess-
55 ment roll. The result shall be the new exemption base. The exemption
56 shall thereupon be recomputed to take into account the new exemption

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1 base, notwithstanding the fact that the assessor receives the certif-
2 ication of the change in level of assessment after the completion,
3 verification and filing of the final assessment roll. In the event the
4 assessor does not have custody of the roll when such certification is
5 received, the assessor shall certify the recomputed exemption to the
6 local officers having custody and control of the roll, and such local
7 officers are hereby directed and authorized to enter the recomputed
8 exemption certified by the assessor on the roll. The assessor shall give
9 written notice of such recomputed exemption to the property owner, who
10 may, if he or she believes that the exemption was recomputed incorrect-
11 ly, apply for a correction in the manner provided by title three of
12 article five of this chapter for the correction of clerical errors.

13 {(iii)} (IV) The following table shall illustrate the computation of
14 the tax exemption:

15 PERCENTAGE OF

16		CERTIFIED SMART	
17	Year of exemption	GROWTH PLAN EXEMPTION	Percentage of exemption
18	1	75	50
19	2	75	45
20	3	70	40
21	4	60	35
22	5	50	30
23	6	40	25
24	7	30	20
25	8	20	15
26	9	10	10
27	10	5	5

28 12. Notwithstanding subdivision two of this section, where a county,
 29 city, town, village or school district adopts restricted exemptions
 30 pursuant to subdivision ten of this section, the law or resolution may
 31 provide that such exemptions shall be computed pursuant to the following
 32 accelerated strategic exemption schedule:

33		PERCENTAGE OF	
34		CERTIFIED SMART	
35	Year of exemption	GROWTH PLAN EXEMPTION	Percentage of exemption
36	1	75	50
37	2	75	50
38	3	75	50
39	4	50	40
40	5	50	30
41	6	40	20
42	7	30	10
43	8	20	10
44	9	10	10
45	10	5	5

46 Provided however, that such law or resolution shall:

47 (i) contain findings that the adoption of this accelerated strategic
 48 exemption schedule is necessary to encourage targeted economic develop-
 49 ment, create or retain permanent private sector jobs, and that the value
 50 of the exemptions to be provided is justified by the need to provide
 51 employment opportunities and broaden the tax base; and

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1 (ii) limit the applicability of such schedule to projects where the
 2 cost of such construction, alteration, installation or improvement
 3 exceeds the sum of fifty thousand dollars; and

4 (iii) provide that such exemptions are restricted by geographic areas
 5 and/or groups and major divisions as is provided by subdivision ten of
 6 this section.

7 S 10. Subdivision 2 of section 1854 of the public authorities law, as
 8 amended by chapter 558 of the laws of 1980, is amended to read as
 9 follows:

10 2. The provision of services. To provide services required for the
 11 development and use of new energy technologies and related methods by
 12 the industrial, commercial, medical, scientific, public interest, educa-
 13 tional and governmental organizations within the state, including the
 14 power to establish, acquire and develop facilities therefor not other-
 15 wise available within the state, and to operate and manage such facili-
 16 ties. PROJECTS LOCATED WITHIN GROWTH OR REDEVELOPMENT AREAS IDENTIFIED
 17 IN AN APPROVED SMART GROWTH PLAN PURSUANT TO ARTICLE FIFTY OF THE ENVI-

18 ENVIRONMENTAL CONSERVATION LAW SHALL HAVE A PREFERENCE IN THE AUTHORITY'S
19 IDENTIFICATION OF PROJECTS ELIGIBLE FOR SUCH ASSISTANCE.

20 S 11. The state finance law is amended by adding a new section 97-cccc
21 to read as follows:

22 S 97-CCCC. NEW YORK STATE SMART GROWTH REVOLVING LOAN FUND. 1. THERE
23 IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND
24 THE SECRETARY OF STATE A NEW FUND TO BE KNOWN AS THE "NEW YORK STATE
25 SMART GROWTH REVOLVING LOAN FUND".

26 2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR ITS PURPOSE,
27 ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW, AND ALL MONEYS
28 REQUIRED BY THIS SECTION OR ANY OTHER LAW TO BE PAID INTO OR CREDITED TO
29 THIS FUND, INCLUDING ALL MONEYS RECEIVED BY THE FUND OR DONATED TO IT,
30 PAYMENTS OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND, AND ANY
31 INTEREST EARNINGS WHICH MAY ACCRUE FROM THE INVESTMENT OR REINVESTMENT
32 OF MONEYS FROM THE FUND.

33 3. MONEYS OF SUCH FUND, WHEN ALLOCATED, SHALL BE AVAILABLE TO THE
34 SECRETARY OF STATE TO MAKE LOANS AS PROVIDED IN THIS SECTION. UP TO FIVE
35 PERCENT OF THE MONEYS OF THE FUND OR TWO HUNDRED FIFTY THOUSAND DOLLARS,
36 WHICHEVER IS LESS, MAY BE USED TO PAY THE EXPENSES, INCLUDING PERSONAL
37 SERVICE AND MAINTENANCE AND OPERATION, IN CONNECTION WITH THE ADMINIS-
38 TRATION OF SUCH LOANS.

39 4. (A) THE SECRETARY OF STATE, ON RECOMMENDATION OF THE SMART GROWTH
40 REVIEW BOARD, MAY MAKE, UPON APPLICATION DULY MADE, UP TO THE AMOUNTS
41 AVAILABLE BY APPROPRIATION, LOANS TO ANY VILLAGE, TOWN, CITY, COUNTY OR
42 SMART GROWTH COMPACT COUNCIL WITH A CERTIFIED SMART GROWTH PLAN OR
43 CERTIFIED SMART GROWTH COMPACT PLAN FOR THE FOLLOWING TYPES OF PROJECTS
44 WHEN CONSISTENT WITH THE CERTIFIED SMART GROWTH PLAN OR CERTIFIED SMART
45 GROWTH COMPACT PLAN FOR SUCH VILLAGE, TOWN, CITY, COUNTY OR SMART GROWTH
46 COMPACT COUNCIL:

47 (I) PUBLIC INVESTMENT. INFRASTRUCTURE PROJECTS THAT ACCOUNT FOR AND
48 MINIMIZE THE SOCIAL, ECONOMIC AND ENVIRONMENTAL COSTS OF DEVELOPMENT,
49 SUCH AS TRANSPORTATION, SEWERS AND WASTE-WATER TREATMENT, WATER,
50 SCHOOLS, RECREATION, AND OPEN SPACE;

51 (II) ECONOMIC DEVELOPMENT. ECONOMIC DEVELOPMENT PROJECTS IN AREAS
52 WHERE TRANSPORTATION, WATER AND SEWER SERVICES AND OTHER NECESSARY
53 INFRASTRUCTURE ARE READILY AVAILABLE;

54 (III) CONSERVATION. PROJECTS TO PROTECT, PRESERVE, AND ENHANCE
55 RESOURCES, INCLUDING AGRICULTURAL LAND, FORESTS, SURFACE WATER AND

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1 GROUNDWATER, RECREATION AND OPEN SPACE, SCENIC AREAS, AND SIGNIFICANT
2 HISTORIC AND ARCHAEOLOGICAL SITES;

3 (IV) COORDINATION. PROJECTS TO PROMOTE COORDINATION OF STATE AND LOCAL
4 GOVERNMENT DECISIONS AND COOPERATION AMONG COMMUNITIES TO WORK TOWARDS
5 THE MOST EFFICIENT, PLANNED, AND COST-EFFECTIVE DELIVERY OF GOVERNMENT
6 SERVICES BY, AMONG OTHER MEANS, FACILITATING COOPERATIVE AGREEMENTS
7 AMONG ADJACENT COMMUNITIES AND TO COORDINATE PLANNING TO ENSURE COMPAT-
8 IBILITY OF ONE COMMUNITY'S DEVELOPMENT WITH DEVELOPMENT OF NEIGHBORING
9 COMMUNITIES;

10 (V) COMMUNITY DESIGN. PROJECTS TO STRENGTHEN COMMUNITIES THROUGH
11 DEVELOPMENT AND REDEVELOPMENT STRATEGIES, THAT INCLUDE INTEGRATION OF
12 ALL INCOME AND AGE GROUPS, MIXED LAND USES AND COMPACT DEVELOPMENT,
13 TRADITIONAL NEIGHBORHOOD DEVELOPMENT, PLANNED UNIT DEVELOPMENT, OPEN
14 SPACE DISTRICTS, DOWNTOWN REVITALIZATION, BROWNFIELD REDEVELOPMENT,
15 ENHANCED BEAUTY IN PUBLIC SPACES, AND DIVERSE AND AFFORDABLE HOUSING IN
16 CLOSE PROXIMITY TO PLACES OF EMPLOYMENT, RECREATION AND COMMERCIAL
17 DEVELOPMENT;

18 (VI) TRANSPORTATION. PROJECTS TO PROVIDE TRANSPORTATION CHOICES,

19 INCLUDING INCREASING PUBLIC TRANSIT, IN ORDER TO REDUCE AUTOMOBILE
20 DEPENDENCY, TRAFFIC CONGESTION AND AUTOMOBILE POLLUTION; AND
21 (VII) CONSISTENCY. PROJECTS TO ENSURE PREDICTABILITY IN BUILDING AND
22 LAND USE CODES.

23 (B) NO LOAN AUTHORIZED BY THIS SECTION SHALL HAVE AN INTEREST RATE
24 EXCEEDING TWO AND ONE-HALF PERCENT AND NO LOAN TO A SMART GROWTH COMPACT
25 COUNCIL OR ANY LOCAL GOVERNMENT SUBJECT TO A CERTIFIED SMART GROWTH
26 COMPACT PLAN SHALL HAVE AN INTEREST RATE EXCEEDING ONE AND ONE-HALF
27 PERCENT. NO APPLICANT SHALL RECEIVE A LOAN FOR ANY PURPOSE UNDER PARA-
28 GRAPH (A) OF THIS SUBDIVISION MORE THAN ONCE IN ANY TWO-YEAR PERIOD. THE
29 MINIMUM AMOUNT OF ANY LOAN SHALL BE FIVE THOUSAND DOLLARS. THE PERIOD
30 OF ANY LOAN SHALL NOT EXCEED THE PERIOD OF PROBABLE USEFULNESS,
31 PRESCRIBED BY SECTION 11.00 OF THE LOCAL FINANCE LAW, OR, IF NO PERIOD
32 BE THERE PRESCRIBED, TEN YEARS. THE TOTAL AMOUNT OF ANY INTEREST EARNED
33 BY THE INVESTMENT OR REINVESTMENT OF ALL OR PART OF THE PRINCIPAL OF ANY
34 LOAN MADE UNDER THIS SECTION SHALL BE RETURNED TO THE SECRETARY OF STATE
35 FOR DEPOSIT IN THE FUND AND SHALL NOT BE CREDITED AS PAYMENT OF PRINCI-
36 PAL OR INTEREST ON THE LOAN. THE SECRETARY OF STATE MAY REQUIRE SECURITY
37 FOR ANY LOAN AND MAY SPECIFY THE PRIORITY OF LIENS AGAINST ANY PROJECT
38 WHOLLY OR PARTIALLY FUNDED BY MONEYS LOANED UNDER THIS SECTION. THE
39 SECRETARY OF STATE MAY MAKE LOANS UNDER THIS SECTION SUBJECT TO SUCH
40 OTHER TERMS AND CONDITIONS THE SECRETARY DEEMS PROPER.

41 (C) WHEN THE SMART GROWTH PLAN OF ANY COUNTY, CITY, TOWN, VILLAGE OR
42 SMART GROWTH COMPACT COUNCIL IS DECERTIFIED BY THE SMART GROWTH REVIEW
43 BOARD, SUCH LOCAL GOVERNMENT OR SMART GROWTH COMPACT COUNCIL SHALL MAKE
44 FINAL PAYMENT ON ANY OUTSTANDING PRINCIPAL AND INTEREST DUE ON A LOAN
45 FROM THE SMART GROWTH REVOLVING LOAN FUND WITHIN TWO YEARS OF SUCH
46 DECERTIFICATION.

47 (D) THE SECRETARY OF STATE SHALL HAVE THE POWER TO MAKE SUCH RULES AND
48 REGULATIONS AS MAY BE NECESSARY AND PROPER TO EFFECTUATE THE PURPOSES OF
49 THIS SECTION.

50 (E) THE SECRETARY OF STATE SHALL ANNUALLY REPORT BY MARCH FIFTEENTH TO
51 THE GOVERNOR AND THE LEGISLATURE DESCRIBING THE ACTIVITIES AND OPERATION
52 OF THE LOAN PROGRAM AUTHORIZED BY THIS SECTION. SUCH REPORT SHALL SET
53 FORTH THE NUMBER OF LOAN APPLICATIONS RECEIVED AND APPROVED; THE NAMES
54 OF VILLAGES, TOWNS, CITIES, COUNTIES OR SMART GROWTH COMPACT COUNCILS
55 RECEIVING LOANS TOGETHER WITH THE AMOUNT AND PURPOSE OF THE LOAN, THE
56 INTEREST RATE CHARGED, AND THE OUTSTANDING BALANCE; AND THE BALANCE

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1 REMAINING IN THE NEW YORK STATE SMART GROWTH REVOLVING LOAN FUND, ALONG
2 WITH FUND REVENUES AND EXPENDITURES FOR THE PREVIOUS FISCAL YEAR, AND
3 PROJECTED REVENUES AND EXPENDITURES FOR THE CURRENT AND FOLLOWING FISCAL
4 YEARS.

5 5. (A) APPLICATION FOR LOANS MAY BE MADE BY A VILLAGE, TOWN, CITY,
6 COUNTY OR SMART GROWTH COMPACT COUNCIL WITH A CERTIFIED SMART GROWTH
7 PLAN OR CERTIFIED SMART GROWTH COMPACT PLAN.

8 (B) EVERY APPLICATION SHALL BE IN A FORM ACCEPTABLE TO THE SECRETARY
9 OF STATE. EVERY APPLICATION SHALL ACCURATELY REFLECT THE CONDITIONS
10 WHICH GIVE RISE TO THE PROPOSED EXPENDITURE AND ACCURATELY REFLECT THE
11 ABILITY OF THE APPLICANT TO MAKE SUCH AN EXPENDITURE WITHOUT THE
12 PROCEEDS OF A LOAN UNDER THIS SECTION.

13 (C) (I) THE SECRETARY OF STATE SHALL GIVE PREFERENCE TO THOSE APPLICA-
14 TIONS WHICH DEMONSTRATE THE GREATEST NEED AND TO THOSE APPLICATIONS
15 WHICH ARE CONSISTENT WITH A CERTIFIED SMART GROWTH COMPACT PLAN AND MAY
16 DISAPPROVE ANY APPLICATION WHICH CONTAINS NO ADEQUATE DEMONSTRATION OF
17 NEED OR WHICH WOULD RESULT IN INEQUITABLE OR INEFFICIENT USE OF THE
18 MONEYS IN THE FUND.

19 (II) IN MAKING DETERMINATIONS ON LOAN APPLICATIONS, THE SECRETARY OF
20 STATE SHALL ASSURE THAT LOAN FUND MONEYS ARE EQUITABLY DISTRIBUTED AMONG
21 ALL LEVELS OF GOVERNMENT AND ALL GEOGRAPHICAL AREAS OF THE STATE. NOT
22 LESS THAN TWENTY-FIVE PERCENT OF THE LOANS ANNUALLY MADE SHALL BE MADE
23 TO APPLICANTS SUBJECT TO A CERTIFIED SMART GROWTH COMPACT PLAN.

24 (D) AN APPLICATION SHALL BE REFERRED BY THE SECRETARY OF STATE TO THE
25 SMART GROWTH REVIEW BOARD FOR REVIEW AND RECOMMENDATION.

26 (E) AN APPLICATION SHALL NOT BE APPROVED IF THE APPLICANT IS IN
27 ARREARS ON ANY PRIOR LOAN UNDER THIS SECTION.

28 6. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
29 ACCOMPANYING MEANINGS:

30 (A) "SMART GROWTH PLAN" SHALL MEAN THE DOCUMENT MEETING THE REQUIRE-
31 MENTS OF SECTION 50-0107 OF THE ENVIRONMENTAL CONSERVATION LAW AND
32 SUBMITTED FOR CERTIFICATION PURSUANT TO SECTION 50-0115 OF THE ENVIRON-
33 MENTAL CONSERVATION LAW;

34 (B) "SMART GROWTH COMPACT COUNCIL" SHALL MEAN A COUNCIL ESTABLISHED
35 PURSUANT TO SECTION 50-0109 OF THE ENVIRONMENTAL CONSERVATION LAW; AND

36 (C) "SMART GROWTH REVIEW BOARD" SHALL MEAN THE BOARD ESTABLISHED
37 PURSUANT TO SECTION 50-0111 OF THE ENVIRONMENTAL CONSERVATION LAW.

38 S 12. The executive law is amended by adding a new article 6-G to read
39 as follows:

40 ARTICLE 6-G

41 SMART GROWTH LOCAL ASSISTANCE OFFICE

42 SECTION 160-AAA. SMART GROWTH LOCAL ASSISTANCE OFFICE.

43 S 160-AAA. SMART GROWTH LOCAL ASSISTANCE OFFICE. 1. THERE IS HEREBY
44 ESTABLISHED A SMART GROWTH LOCAL ASSISTANCE OFFICE WITHIN THE DEPARTMENT
45 OF STATE WHICH SHALL PROVIDE MUNICIPALITIES WITH TECHNICAL, SCIENTIFIC
46 AND FINANCIAL ASSISTANCE FOR PROJECTS INCLUDING, BUT NOT LIMITED TO:

47 (A) COMMUNITY COLLABORATIVE DEVELOPMENT, PURSUANT TO THE PROVISIONS OF
48 SECTION 50-0107 OF THE ENVIRONMENTAL CONSERVATION LAW, SMART GROWTH
49 PLANS AND GENERIC ENVIRONMENTAL IMPACT STATEMENTS, INCLUDING THE
50 REVISION OF EXISTING COMPREHENSIVE PLANS OR OTHER EXISTING PLANS;

51 (B) REVISIONS OF LOCAL COMPREHENSIVE PLANS, OTHER PLANS OR LAND USE
52 REGULATIONS WHERE SUCH REVISIONS ARE DESIGNED TO IMPLEMENT A CERTIFIED
53 PRELIMINARY SMART GROWTH PLAN PURSUANT TO SECTION 50-0115 OF THE ENVI-
54 RONMENTAL CONSERVATION LAW, AND SMART GROWTH PRINCIPLES PURSUANT TO
55 SECTION 50-0105 OF THE ENVIRONMENTAL CONSERVATION LAW;

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1 (C) EDUCATION FOR LOCAL GOVERNMENTS REGARDING DEVELOPMENT, REDEVELOP-
2 MENT AND CONSERVATION STRATEGIES INCLUDING TRANSFER OF DEVELOPMENT
3 RIGHTS, INCENTIVE ZONING, CLUSTER DEVELOPMENT, REAL PROPERTY TAX INCEN-
4 TIVES, CONSERVATION EASEMENTS, PLANNED UNIT DEVELOPMENTS, MIXED USE
5 ZONING, TRADITIONAL NEIGHBORHOOD DEVELOPMENT AND OPEN SPACE DISTRICTS.

6 2. ANY SUCH TECHNICAL, SCIENTIFIC OR FINANCIAL ASSISTANCE PROVIDED BY
7 THE SMART GROWTH LOCAL ASSISTANCE OFFICE SHALL REQUIRE A MATCHING
8 CONTRIBUTION BY THE MUNICIPALITY. THE TOTAL AMOUNT OF STATE ASSISTANCE
9 FOR ANY INDIVIDUAL MUNICIPALITY SHALL NOT EXCEED FIFTY PERCENT OF THE
10 COST AND SHALL NOT EXCEED SEVENTY-FIVE PERCENT FOR MULTIPLE MUNICI-
11 PALITIES FORMING COMPACTS. ANY MUNICIPALITY WHICH RECEIVES A GRANT
12 PURSUANT TO THIS SUBDIVISION MAY, AT THE DISCRETION OF THE DEPARTMENT OF
13 STATE, CONTRIBUTE ITS MATCH REQUIREMENT IN THE FROM OF AN IN KIND OR
14 OTHER NON-MONETARY CONTRIBUITION.

15 3. THE SMART GROWTH LOCAL ASSISTANCE OFFICE SHALL ADMINISTER THE NEW
16 YORK STATE SMART GROWTH REVOLVING LOAN FUND CREATED PURSUANT TO SECTION
17 NINETY-SEVEN-CCCC OF THE STATE FINANCE LAW.

18 S 13. This act shall take effect immediately; provided, however, the
19 provisions of subdivision 4 of section 862 of the general municipal law,

20 as added by section five of this act, shall not affect the reversion of
21 such section 862 as provided in section 38 of chapter 356 of the laws of
22 1993, as amended, and shall expire and be deemed repealed therewith,
23 whereupon the provisions of section six of this act shall take effect.

POLICY CHANGE CATEGORY

CHIEF ENVIRONMENTALIST

EPF-Peconic Estuary Program

PROPOSAL

Urge the State Legislature to earmark \$250,000 of the Environmental Protection Fund through the 04-05 budget process for the purpose of implementing the Peconic Estuary Program's Comprehensive Conservation and Management Plan.

JUSTIFICATION

The Peconic Estuary is a critical estuary on Long Island. The EPF has funded programs in FY02 for the Peconic Estuary Watershed program and for the Benthic Mapping program. However there are currently no monies allocated for the Estuary's Comprehensive Conservation and Management Plan. The Peconic Estuary is dedicated to preserving the environment and quality of life for the area surrounding the estuary and it is critical that there be monies set aside to accomplish this goal.

For 10 years, the New York State Environmental Protection Fund (EPF)-- a dedicated trust fund -- has assisted local government in a number of important areas including, protecting water quality and funding important estuary programs.

FISCAL IMPACT

Savings to County.

BACKGROUND

The EPF, which receives the bulk of its funds through the state real Estate Transfer Tax is an important source of state assistance to the county and local governments. Although the state faces economic challenges, this is a dedicated fund that is based on a dedicated funding source, which was designed to fund projects aimed at improving the quality of our environment in good economic times as well as those that are more challenging.

LEGISLATIVE ACTION

No legislative action taken to date on this issue.

POLICY CHANGE CATEGORY

HANDICAPPED SERVICES

Vehicle and Traffic Law

PROPOSAL

Amend Section 1203-e of the Vehicle & Traffic Law by adding a new subsection 2 similar to Section 1203-c3 making the owner of the shopping facility responsible for not having snow plowed into the designated handicapped parking spaces and the access aisles next to them, which are an integral part of each space. Then when a police officer came upon a pile of snow dumped onto a designated handicapped parking space, a ticket could be issued to the owner of the shopping facility without the officer having actually witnessing the act.

JUSTIFICATION

The owner is the one who hires the snowplow operator. This gives him the right to tell the plow operator where to pile up the snow. Since there are many more regular parking spaces in a shopping facility parking lot than there are designated handicapped parking spaces, it makes more sense to pile snow into one of the regular spaces if there is no other place to put it. The precedent for this is clearly stated in Section 1203-c3 where the owners can be fined for not having clearly marked (pavement striping and signage). In this example, the Vehicle & Traffic Law holds the owner of the shopping facility responsible since they are the ones that hire people to mark their parking lots. Likewise, they should be held responsible when snow is plowed into the handicapped parking spaces. Spaces

FISCAL IMPACT

This proposal would have a minimal revenue enhancement impact.

BACKGROUND & STATISTICS

Many snowplow operators push snow into the handicapped parking spaces where they pile it up in violation of the Vehicle & Traffic Law. They do this with impunity even though Section 1203-e already prohibits dumping or shoveling snow onto a parking place for handicapped persons rendering such place unusable for parking purposes. They get away with this because under existing law, a police officer must actually witness the person putting snow onto the designated handicapped parking space. Only then can a police officer issue a ticket for the offense. And if a police officer actually sees the violation in progress, the ticket is issued to the plow operator, not to the owner of the parking lot who hired him. The result is very few, if any tickets being issued for this violation which prevents disabled persons from using these spaces until the pile of snow melts. When we have a heavy snowfall, it sometimes takes weeks for the pile to melt effectively making that handicapped parking space unavailable for a lengthy period of time..

LEGISLATIVE HISTORY

There has been no legislative action to date on this issue.

POLICY CHANGE CATEGORY

DEPARTMENT OF LABOR

Unemployment Wage Records

PROPOSAL

Amend NYS Consolidated Labor Law, Article 18: Unemployment Insurance Law, Title 3. Administration, Section 537. Disclosures Prohibited to allow NYS Workforce Investment Act, Title I Education & Training Program Providers direct access to unemployment insurance program wage records.

JUSTIFICATION

UI wage data is utilized in WIA performance reporting which measures success in achieving the legislative goals of WIA. UI wage data is a source record that feeds into negotiated performance goals at the state and local levels. States such as New York that do not have direct access to UI wage records are negatively affected by a procedural artifact (additional reporting time lags) which renders its WIA performance reports not directly comparable with reports that are produced by states that have direct access to UI wage records. In addition, there are extra costs incurred by efforts to compensate for inaccuracy caused by excessive time lags during customer follow-up, program tracking and monitoring, and report reconciliation.

Consequently, amendment of NYS Consolidated Labor Law, Article 18: Unemployment Insurance Law, Title 3. Administration, Section 537. Disclosures Prohibited to allow NYS Workforce Investment Act, Title 1 Education & Training Program Providers direct access to unemployment insurance program wage records would yield timelier source data. Improvements in the accuracy and timeliness of source data that feeds into the WIA performance reporting system would provide a truer picture of programmatic success or failure and provide more meaningful administrative guidance.

Under WIA, Suffolk County must meet 17 performance standards to continue grant funding. Delays in data due to restricted use of the State's UI system jeopardizes funding, with data reported on a three month lag.

FISCAL IMPACT

Amendment of NYS Consolidated Labor Law, Article 18: Unemployment Insurance LAW, Title 3. Administration, Section 537. Disclosures Prohibited to allow New York State Workforce Investment Act, Title I Education & Training Program Providers direct access to unemployment insurance program wage records would make it easier to track placements for WIA performance standards, produce more accurate information regarding WIA Program performance, produce more useful information for Program administration, and reduce administrative costs expended to compensate for the negative effects of excessive time lags caused.

Most importantly, however, amendment of the law improves chances of Program success. Conversely, should the law continue to negatively impact performance reporting to the extent that it impedes actual performance, and then ultimately funding allocations might

be affected at the state and local levels. That is, should performance measures reveal inadequate service, levels are a pervasive problem, subsequent funding allocations could be reduced at the state and/or local levels.

BACKGROUND & STATISTICS

The Workforce Investment Act of 1998 (Pub. L. 105-220) Section 136, Workforce Investment Act (WIA), Interim Final Rule, 20 CFR Part 666, published at 64 Federal Register 18662 (April 15, 1999) specifies that core indicators of performance for WIA activities in Adult, Dislocated Worker and Youth Programs must be collected and reported. Information revealed by WIA performance measure reports is used to evaluate the success of WIA Programs at the local, state, and federal levels. States and localities also use information yielded from performance measures for strategic planning, Program management, and continuous improvement purposes. In addition, there is federal intent to share WIA performance information with other related programs (e.g., the Trade Adjustment Assistance and NAFTA-Transitional Assistance programs ... a mandatory WIA partner). Consequently, accurate and timely source data must feed into the WIA performance reporting system to provide a true assessment of programmatic success or failure and to provide meaningful administrative guidance.

WIA, Title I Programs are devoted to workforce development through an array of employment related training and education activities that target adults, dislocated workers, and youth. Consequently, pre and post Program job information for Program participants serves as key evaluative reference points that yield critical information about WIA Program success/failure. Indeed, WIA performance reporting requires that (along with other data) the following registrant information be filed: “entry into unsubsidized employment,” “retention in unsubsidized employment six months after entry into employment,” “earnings received in unsubsidized employment six months after entry into employment,” and “earnings received in unsubsidized employment six months after entry into employment relative to earnings of job of dislocation.”

WIA Section 136 also calls for the use of quarterly Unemployment Insurance (UI) wage records to measure performance. There is a significant time delay in availability of the UI wage records for use as a data source. Consequently, it is understood outcomes reported for most participants will be affected by UI wage data processing lags. Initial estimates suggested that UI system time lags of 6 months and more will be the rule. Additional time lags accrue in states, such as New York, that have a stringent UI Disclosure Law that restricts direct access to UI wage records. In New York State, where only the State Labor Commissioner may access UI data, a system is in place for interim UI reports to be prepared & released to local WIA agencies. Estimates suggest that a minimum of three additional months accrue to pre-existing UI system-reporting time lags. As a result, accuracy and relevance of data relayed through New York State’s UI wage record reports are severely impaired, which places New York State WIA Title I operators at a disadvantage relative to other WIA Title I operators that have direct access to source UI wage records.

LEGISLATIVE HISTORY

To date, there has been no legislative action on this issue.

POLICY CHANGE CATEGORY

PUBLIC WORKS

County Road Administration

PROPOSAL

Suffolk County supports the revision to Article 40 of the New York State Vehicle & Traffic Law, Sections 1650, 1651, 1652-A and 1652-B to give the County of Suffolk the authority on its road system that the New York State Department of Transportation has on state roads.

JUSTIFICATION

Currently, Suffolk County does not have the authority to efficiently administer and operate its highway system. The towns, instead, have the authority to regulate speeds, parking and turn prohibitions on County Roads. To effectively administer and operate a County road, the County should have that authority.

FISCAL IMPACT

None

BACKGROUND & STATISTICS

The Town of Brookhaven Traffic Safety Department is completely in favor of this bill. In fact, they would like it expanded to include all traffic devices.

LEGISLATIVE HISTORY

None.

POLICY CHANGE CATEGORY

DEPARTMENT OF SOCIAL SERVICES

Abandoned Infants

PROPOSAL

Support State legislation A.4611/S.1015 to amend the Family Court Act and the Domestic Relations Law to provide procedures for the care and custody of infants determined to be abandoned. The legislation creates a process to facilitate freeing abandoned infants for adoption if a parent does not claim custody within statutory period. It also will permit the County to obtain Federal and State reimbursement for care provided for the infant.

JUSTIFICATION

Under the current legislation, the Suffolk County Department of Social Services must accept custody of an abandoned infant as a destitute child and, as such, receives no Federal or State reimbursement.

This legislation will give direction to the local social service agencies and the judicial system to process the transfer of guardianship and custody of infants abandoned pursuant to the Abandoned Infant Protection Act and to allow these babies to be freed for adoption after sixty days.

Any financial savings to the State and County due to expedited placement of these children in adoptive homes, stands a distant second to the benefits to society and the child who will reap the blessing of status and permanency in a sound loving environment in the most expedient manner.

FISCAL IMPACT

Savings to County by being eligible for Federal and State reimbursement.

BACKGROUND & STATISTICS

The Abandoned Infant Protection Act of 2000 created a procedure whereby individuals would be protected from prosecution if they place their infant in a “safe haven.”

LEGISLATIVE HISTORY

The legislation has been continually introduced in the State Senate since 2001 and the State Assembly since 2002. It is currently referred to the Children and Families committee in the Assembly and it has been ordered to Third Reading, Cal. 147 in the Senate.

2003-2004 Regular Sessions

I N A S S E M B L Y

February 19, 2003

Introduced by M. of A. WEISENBERG, DiNAPOLI, SEDDIO, CLARK, MAYERSOHN --
Multi-Sponsored by -- M. of A. CARROZZA, COLTON, COOK, CYMBROWITZ,
EDDINGTON, GALEF, GORDON, HEASTIE, HOOPER, KAUFMAN, LAVELLE, MAGEE,
McENENY, TOWNS -- read once and referred to the Committee on Children
and Families

AN ACT to amend the family court act and the domestic relations law, in
relation to abandoned infants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 1012 of the family court act is amended by adding
2 a new subdivision (f-1) to read as follows:

3 (F-1) A CHILD IS AN "ABANDONED INFANT" WHEN THE COURT ENTERS AN ORDER
4 PURSUANT TO SECTION TEN HUNDRED FIFTY-ONE-A OF THIS ARTICLE THAT SUCH
5 CHILD IS NOT MORE THAN FIVE DAYS OLD AND HAS BEEN LEFT BY A PARENT IN A
6 MANNER WHICH INDICATES INTENT TO SURRENDER AND RELINQUISH ALL RESPONSI-
7 BILITY FOR THE CARE OF SUCH CHILD.

8 S 2. Paragraph (ii) of subdivision (f) of section 1012 of the family
9 court act, as amended by chapter 666 of the laws of 1976, is amended to
10 read as follows:

11 (ii) who has been abandoned, in accordance with the definition and
12 other criteria set forth in subdivision five of section three hundred
13 eighty-four-b of the social services law, by his OR HER parents or other
14 person legally responsible for his OR HER care, BUT SHALL NOT INCLUDE AN
15 ABANDONED INFANT AS DEFINED IN SUBDIVISION (F-1) OF THIS SECTION.

16 S 3. Subdivision (j) of section 1012 of the family court act, as added
17 by chapter 7 of the laws of 1999, is amended to read as follows:

18 (j) "Aggravated circumstances" means where a child has been either
19 severely or repeatedly abused, as defined in subdivision eight of
20 section three hundred eighty-four-b of the social services law, OR WHERE
21 A CHILD HAS BEEN DETERMINED TO BE AN ABANDONED INFANT PURSUANT TO
22 SECTION TEN HUNDRED FIFTY-ONE-A OF THIS ARTICLE.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 S 4. Section 1042 of the family court act, as added by chapter 962 of
2 the laws of 1970, is amended to read as follows:

3 S 1042. Effect of absence of parent or other person responsible for
4 care. If the parent or other person legally responsible for the child's
5 care is not present, the court may proceed to hear a petition under this
6 article only if the child is represented by counsel, a law guardian, or
7 a guardian ad litem. If the parent or other person legally responsible
8 for the child's care thereafter moves the court that a resulting dispo-
9 sition be vacated and asks for a rehearing, the court shall grant the

10 motion on an affidavit showing such relationship or responsibility,
11 unless THE CHILD HAS BEEN DECLARED AN ABANDONED INFANT PURSUANT TO
12 SECTION TEN HUNDRED FIFTY-ONE-A OF THIS ARTICLE AND THE PARENTS HAVE
13 FAILED TO ASSERT A CLAIM OF CUSTODY WITHIN THE TIME PERIOD SET FORTH IN
14 SUCH SECTION, OR the court finds that the parent or other person will-
15 fully refused to appear at the hearing, in which case the court may deny
16 the motion.

17 S 5. Subparagraph (A) of paragraph (vii) of subdivision (b) of section
18 1055 of the family court act, as added by chapter 605 of the laws of
19 1990 and such paragraph as renumbered by chapter 538 of the laws of
20 1992, is amended to read as follows:

21 (A) 1. Upon placing a child under the age of one, who has been aban-
22 doned AS DEFINED IN PARAGRAPH (II) OF SUBDIVISION (F) OF SECTION TEN
23 HUNDRED TWELVE OF THIS ARTICLE, with a local commissioner of social
24 services, the court shall, where the parents do not appear after due
25 notice, include in its order of disposition pursuant to section ten
26 hundred fifty-two OF THIS PART, a direction that such commissioner shall
27 promptly commence a diligent search to locate the child's parents or
28 other known relatives who are legally responsible for the child, and to
29 commence a proceeding to commit the guardianship and custody of such
30 child to an authorized agency pursuant to section three hundred eighty-
31 four-b of the social services law, six months from the date that care
32 and custody of the child was transferred to {the} SUCH commissioner,
33 unless there has been communication and visitation between such child
34 and his parents or other known relatives or persons legally responsible
35 for the child. In addition to such diligent search the LOCAL commission-
36 er of social services shall provide written notice to the child's
37 parents or other known relatives as provided for in this paragraph. Such
38 notice shall be served upon such parents or other known relatives in the
39 manner required for service of process pursuant to section six hundred
40 seventeen of this chapter.

41 2. AN ABANDONED INFANT, AS DEFINED IN SUBDIVISION (F-1) OF SECTION TEN
42 HUNDRED TWELVE OF THIS ARTICLE, SHALL NOT BE SUBJECT TO THE REQUIREMENTS
43 OF CLAUSE ONE OF THIS SUBPARAGRAPH.

44 S 6. The family court act is amended by adding a new section 1031-a to
45 read as follows:

46 S 1031-A. ABANDONED INFANTS. (A) A PROCEEDING TO DETERMINE WHETHER A
47 CHILD IS AN ABANDONED INFANT SHALL BE COMMENCED WITHIN SIX BUSINESS DAYS
48 OF A LOCAL COMMISSIONER OF SOCIAL SERVICES RECEIPT OF NOTIFICATION THAT
49 A CHILD ALLEGED TO BE AN ABANDONED INFANT HAS BEEN FOUND IN THE JURIS-
50 DICTION OF THE LOCAL SOCIAL SERVICES AGENCY.

51 (B) THE PETITION SHALL ALLEGE THE FACTS SURROUNDING THE HISTORY AND
52 CURRENT CUSTODY OF THE CHILD, INCLUDING BUT NOT LIMITED TO:

53 (I) THE LOCATION THE CHILD WAS SURRENDERED OR ABANDONED;

54 (II) THE DATE OF SUCH OCCURRENCE;

55 (III) THE AFFIDAVIT OF THE LICENSED PHYSICIAN CERTIFYING SUCH PHYSI-
56 CIAN'S DETERMINATION AS TO THE AGE OF THE INFANT;

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1 (IV) THE NAMES AND ADDRESSES OF ANY PROSPECTIVE FOSTER CARE OR ADOP-
2 TIVE HOMES; AND

3 (V) ANY OTHER INFORMATION THAT WOULD FACILITATE THE COURT'S DETERMI-
4 NATION.

5 (C) THE PETITION SHALL ALSO MAKE AN APPLICATION PURSUANT TO SECTION
6 TEN HUNDRED THIRTY-NINE-B OF THIS PART FOR THE COURT TO DETERMINE THAT
7 REASONABLE EFFORTS TO RETURN THE CHILD TO HIS OR HER HOME ARE NOT
8 REQUIRED BASED UPON A FINDING THAT THE CHILD HAS BEEN DECLARED AN ABAN-
9 DONED INFANT.

10 (D) THE COURT SHALL APPOINT A LAW GUARDIAN TO REPRESENT THE INTERESTS
11 OF ANY CHILD NAMED IN A PETITION WHO IS ALLEGED TO BE AN ABANDONED
12 INFANT.

13 (E) NO PROCEEDING MAY CONTINUE UNDER THIS SECTION UNLESS THE COURT
14 ENTERS A FINDING:

15 (I) THAT THE CHILD WAS NOT MORE THAN FIVE DAYS OLD AT THE TIME OF THE
16 ABANDONMENT; AND

17 (II) THAT THE PARENT LEFT THE CHILD IN A MANNER WHICH INDICATES INTENT
18 TO SURRENDER AND RELINQUISH ALL RESPONSIBILITY FOR THE CARE OF SUCH
19 CHILD.

20 (F) ALL AUTHORITY GRANTED TO THE LOCAL COMMISSIONER OF SOCIAL SERVICES
21 RELATING TO THE CARE AND CUSTODY OF THE INFANT PURSUANT TO THE SOCIAL
22 SERVICES LAW SHALL CONTINUE UNTIL FURTHER ORDER OF THE COURT.

23 S 7. The family court act is amended by adding a new section 1051-a to
24 read as follows:

25 S 1051-A. SUSTAINING OR DISMISSING A PETITION ALLEGING AN ABANDONED
26 INFANT. (A) IF FACTS SUFFICIENT TO SUSTAIN A PETITION UNDER SECTION TEN
27 HUNDRED THIRTY-ONE-A OF THIS ARTICLE ARE ESTABLISHED, THE COURT SHALL
28 ENTER AN ORDER FINDING THAT THE CHILD IS AN ABANDONED INFANT AND SHALL
29 STATE IN ITS ORDER:

30 (I) THAT, WITHIN A REASONABLE MEDICAL CERTAINTY, THE CHILD WAS NOT
31 MORE THAN FIVE DAYS OLD WHEN HE OR SHE WAS ABANDONED;

32 (II) THE DATE THE CHILD WAS BORN, WITHIN A REASONABLE MEDICAL CERTAIN-
33 TY;

34 (III) THAT THE CHILD WAS LEFT IN A MANNER THAT INDICATED HIS OR HER
35 PARENT`S INTENT TO RELINQUISH RESPONSIBILITY FOR AND RIGHT TO THE CARE
36 AND CUSTODY OF SUCH CHILD;

37 (IV) THAT BASED UPON THE FINDINGS OF PARAGRAPHS (I) AND (III) OF THIS
38 SUBDIVISION, THE CHILD IS AN ABANDONED INFANT PURSUANT TO SUBDIVISION
39 (F-1) OF SECTION TEN HUNDRED TWELVE OF THIS ARTICLE; AND

40 (V) THAT BASED UPON SUCH FINDING THAT THE CHILD IS AN ABANDONED
41 INFANT, REASONABLE EFFORTS TO RETURN THE CHILD TO HIS OR HER HOME ARE
42 NOT REQUIRED.

43 (B) (I) IF FACTS SUFFICIENT TO SUSTAIN THE PETITION UNDER SECTION TEN
44 HUNDRED THIRTY-ONE-A OF THIS ARTICLE ARE NOT ESTABLISHED DUE TO THE
45 CHILD BEING MORE THAN FIVE DAYS OLD AT THE TIME OF ABANDONMENT THE COURT
46 SHALL CONVERT THE PETITION TO A PROCEEDING TO DETERMINE NEGLECT PURSUANT
47 TO SECTION TEN HUNDRED THIRTY-ONE OF THIS ARTICLE AND SHALL STATE ON THE
48 RECORD THAT GROUNDS FOR THE CONVERSION. TEMPORARY CUSTODY OF THE CHILD
49 SHALL CONTINUE UNTIL FURTHER ORDER OF THE COURT. THE COURT SHALL ALSO
50 REFER THE MATTER TO THE APPROPRIATE DISTRICT ATTORNEY`S OFFICE AND
51 DIRECT THE LOCAL COMMISSIONER OF SOCIAL SERVICES TO ORIGINATE A PROCEED-
52 ING UNDER SECTION TEN HUNDRED THIRTY-ONE OF THIS ARTICLE WITHIN SEVEN
53 DAYS.

54 (II) IF THE FACTS SUFFICIENT TO SUSTAIN THE PETITION UNDER THIS
55 SECTION ARE NOT ESTABLISHED DUE TO AN INABILITY TO DETERMINE THE INTENT
56 OF THE PARENT OR PARENTS THEN THE COURT SHALL CONVERT THE PETITION TO A

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1 PROCEEDING TO DETERMINE NEGLECT PURSUANT TO SECTION TEN HUNDRED THIRTY-
2 ONE OF THIS ARTICLE AND SHALL STATE ON THE RECORD THAT GROUNDS FOR THE
3 CONVERSION. TEMPORARY CUSTODY OF THE CHILD SHALL CONTINUE UNTIL FURTHER
4 ORDER OF THE COURT. FOR THE PURPOSES OF THIS PARAGRAPH, ABANDONMENT IN
5 THE MANNER PRESCRIBED BY SECTION 260.03 OF THE PENAL LAW SHALL BE
6 PRESUMPTIVE EVIDENCE OF INTENT TO SURRENDER AND RELINQUISH ALL RESPONSI-
7 BILITY FOR THE CARE OF SUCH CHILD.

8 (C) THE COURT SHALL COMMENCE A DISPOSITIONAL HEARING IMMEDIATELY UPON
9 COMPLETION OF THE FACT-FINDING HEARING. AT THE CONCLUSION OF SUCH DISPO-

10 SITIONAL HEARING THE COURT SHALL ENTER AN ORDER OF DISPOSITION:

11 (I) PLACING THE CHILD IN THE CUSTODY OF THE LOCAL COMMISSIONER OF

12 SOCIAL SERVICES IN ACCORD WITH THE PROVISIONS OF SECTION TEN HUNDRED

13 FIFTY-FIVE OF THIS PART, UPON A DETERMINATION THAT:

14 (A) CONTINUATION IN THE CHILD'S HOME WOULD BE CONTRARY TO THE BEST

15 INTERESTS OF THE CHILD; AND

16 (B) WHERE THE COURT HAS DETERMINED THAT THE CHILD IS AN ABANDONED

17 INFANT, REASONABLE EFFORTS TO PREVENT OR ELIMINATE THE NEED FOR REMOVING

18 THE CHILD FROM HIS OR HER HOME OR TO MAKE IT POSSIBLE FOR THE CHILD TO

19 RETURN SAFELY TO HIS OR HER HOME ARE NOT REQUIRED;

20 (II) REQUIRING THE LOCAL COMMISSIONER OF SOCIAL SERVICES TO COMMENCE A

21 PROCEEDING TO COMMIT THE GUARDIANSHIP AND CUSTODY OF SUCH CHILD TO AN

22 AUTHORIZED AGENCY PURSUANT TO SECTION THREE HUNDRED EIGHTY-FOUR-B OF THE

23 SOCIAL SERVICES LAW IN SIXTY DAYS, PROVIDED THAT NO PETITION HAS BEEN

24 BROUGHT PURSUANT TO SECTION TEN HUNDRED SIXTY-ONE-A OF THIS ARTICLE.

25 UPON RECEIVING SUCH PETITION, THE COURT SHALL SCHEDULE A DATE CERTAIN

26 FOR THE FACT-FINDING AND DISPOSITIONAL HEARING REGARDING SUCH PETITION

27 WHICH SHALL BE NINETY DAYS FROM THE DATE THAT THE CHILD WAS FOUND TO BE

28 AN ABANDONED INFANT PURSUANT TO THIS SECTION;

29 (III) REQUIRING THE LOCAL COMMISSIONER OF SOCIAL SERVICES TO CAUSE

30 NOTICE OF THE PROCEEDING INSTITUTED PURSUANT TO SECTION THREE HUNDRED

31 EIGHTY-FOUR-B OF THE SOCIAL SERVICES LAW TO BE PUBLISHED IN ACCORDANCE

32 WITH THE PROVISIONS OF RULE THREE HUNDRED SIXTEEN OF THE CIVIL PRACTICE

33 LAW AND RULES IN THE COUNTY IN WHICH SUCH CHILD WAS FOUND. THE NOTICE

34 SHALL STATE:

35 (A) THE DATE, TIME AND PURPOSE OF THE PROCEEDING;

36 (B) THE DATE, TIME AND PLACE THAT THE ABANDONED INFANT WAS FOUND;

37 (C) A DESCRIPTION OF THE INFANT INCLUDING ITS APPROXIMATE DATE OF

38 BIRTH;

39 (D) THAT UPON FAILURE TO APPEAR, ALL PARENTAL RIGHTS OF THE PARENTS OF

40 SUCH ABANDONED INFANT SHALL BE TERMINATED;

41 (E) THAT A PARENT'S FAILURE TO APPEAR SHALL CONSTITUTE A DENIAL OF HIS

42 OR HER INTEREST IN THE CHILD, WHICH DENIAL SHALL RESULT, WITHOUT FURTHER

43 NOTICE, IN THE COMMITMENT OF THE CUSTODY AND GUARDIANSHIP OF THE CHILD

44 TO THE LOCAL COMMISSIONER OF SOCIAL SERVICES AND IN THE CHILD'S

45 ADOPTION; AND

46 (F) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON DESIGNATED

47 BY THE LOCAL COMMISSIONER OF SOCIAL SERVICES TO CONTACT FOR INFORMATION

48 REGARDING SUCH CHILD.

49 S 8. The family court act is amended by adding a new section 1061-a to

50 read as follows:

51 S 1061-A. CUSTODY CLAIM BY PARENT OF AN ABANDONED INFANT. (A) AT ANY

52 TIME PRIOR TO THE CHILD BEING FREED FOR ADOPTION EITHER PARENT MAY

53 INSTITUTE AN ACTION TO ASSERT A CLAIM FOR CUSTODY OF THE CHILD DECLARED

54 AN ABANDONED INFANT PURSUANT TO SECTION TEN HUNDRED FIFTY-ONE-A OF THIS

55 ARTICLE. SUCH PROCEEDING SHALL BE BROUGHT WITHIN THE COUNTY WHERE SUCH

56 INFANT IS FOUND. SUCH PROCEEDING SHALL ORIGINATE BY PETITION AND SHALL

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1 NAME THE LOCAL COMMISSIONER OF SOCIAL SERVICES, AND BOTH THE PARENTS, IF

2 KNOWN. IN THE EVENT THE WHEREABOUTS OF EITHER PARENT IS UNKNOWN THE

3 PETITION SHALL SO STATE AND THE COURT MAY PROCEED IN SAID PARENT'S

4 ABSENCE. A FILING OF A PETITION UNDER THIS SECTION SHALL TOLL THE TIME

5 FOR FREEING THE CHILD FOR ADOPTION AS PROVIDED FOR IN SUBDIVISION (A) OF

6 SECTION TEN HUNDRED FIFTY-ONE-A OF THIS ARTICLE. NOTICE SHALL BE SERVED

7 UPON THE LAW GUARDIAN APPOINTED PURSUANT TO SUBDIVISION (D) OF SECTION

8 TEN HUNDRED THIRTY-ONE-A OF THIS ARTICLE. IN DETERMINING CUSTODY OF THE

9 INFANT THE COURT SHALL CONSIDER THE BEST INTEREST OF THE CHILD. PENDING

10 A DETERMINATION IN THIS MATTER, THE INFANT SHALL REMAIN IN THE CARE AND
11 CUSTODY OF THE LOCAL COMMISSIONER OF SOCIAL SERVICES UNLESS THE COURT
12 DIRECTS OTHERWISE.

13 (B) IN THE EVENT THAT PETITIONER WHO ALLEGES TO BE A PUTATIVE FATHER,
14 RECITES IN A PETITION, FILED IN THE COUNTY WHEREIN HE RESIDES, FACTS
15 THAT ALLEGE HE IS THE FATHER OF AN INFANT WHOSE WHEREABOUTS ARE UNKNOWN
16 DUE TO THE CONCEALMENT AND PROBABLE ABANDONMENT OF THE RESPONDENT MOTH-
17 ER, THE PETITION MAY BE SERVED UPON THE MOTHER SEEKING AS ITS SOLE REME-
18 DY, THE LOCATION WHERE THE INFANT WAS ABANDONED. RESPONDENT MOTHER MAY
19 THEN AVOID APPEARING IN COURT BY FILING A SWORN STATEMENT WITHIN TEN
20 DAYS DISCLOSING THE LOCATION THE CHILD WAS ABANDONED. A COURT MAY
21 COMPEL, BY THE POWERS OF CONTEMPT, THE DISCLOSURE OF THE INFANT'S WHERE-
22 ABOUTS. UPON DISCLOSURE OF THE INFANT'S LOCATION THE PETITION TO ASSERT
23 THE CLAIM OF CUSTODY SHALL BE TRANSFERRED TO THE COUNTY WHEREIN THE
24 INFANT IS RESIDING FOR FURTHER PROCEEDINGS.

25 (C) THE RECORDS AND DISCOVERY PROCEDURES SET FORTH IN SECTION TEN
26 HUNDRED THIRTY-EIGHT OF THIS ARTICLE SHALL BE APPLICABLE TO A PROCEEDING
27 UNDER THIS SECTION.

28 (D) FAILURE OF A PARENT TO ASSERT A CLAIM FOR CUSTODY UNDER THIS
29 SECTION WITHIN THE SPECIFIED TIME PERIOD SHALL IRREVOCABLY FREE THE
30 CHILD FOR ADOPTION AND ANY ALLEGED PARENT WILL LOSE ALL RIGHTS AT THE
31 END OF THE NINETY DAY PERIOD WITHOUT FURTHER NOTICE.

32 S 9. Paragraph (e) of subdivision 2 of section 111 of the domestic
33 relations law, as amended by chapter 375 of the laws of 1997, is amended
34 and a new paragraph (f) is added to read as follows:

35 (e) who has executed an instrument, which shall be irrevocable, deny-
36 ing the paternity of the child, such instrument having been executed
37 after conception and acknowledged or proved in the manner required to
38 permit the recording of a deed{.}; OR

39 (F) WHERE SUCH CHILD IS DETERMINED TO BE AN ABANDONED INFANT PURSUANT
40 TO SECTION ONE THOUSAND THIRTY-ONE-A OF THE FAMILY COURT ACT.

41 S 10. This act shall take effect on the sixtieth day after it shall
42 have become a law.

POLICY CHANGE CATEGORY

DEPARTMENT OF SOCIAL SERVICES

Kinship Guardianship

PROPOSAL

Urges the passage of S.5813/A.5317 to amend the Family Court Act to allow for kinship guardianship. This proposal seeks to increase the capacity of the family court to place children requiring out of home placement by their natural parent with a family relative able to adequately care for such child.

JUSTIFICATION

Situations arise in the lives of parents sometimes that impair their ability to adequately provide a safe and nurturing environment for their child. These children often end up in an already overcrowded foster care system or fall through the cracks of the Child Welfare Administration. At present, nothing in statute allows the family court to grant such alternative placement (kinship guardianship) for these children. Placing a child with a kinship guardian would allow families to remain intact while reducing further trauma for children placed in the foster care system.

FISCAL IMPACT

Savings for the County Department of Social Services who expends resources to monitor and supervise a child placed in a traditional foster home. If the child were placed in kinship guardianship the department would no longer have to expend resources to supervise the home.

BACKGROUND & STATISTICS

No additional statistics are available at this time.

LEGISLATIVE HISTORY

The bill has been introduced in the State Senate and State Assembly since 2001 without successful passage. It is currently assigned to the Children and Families committee of the Assembly and the Senate.

2003-2004 Regular Sessions

I N A S S E M B L Y

February 26, 2003

Introduced by M. of A. GREEN, TITUS -- Multi-Sponsored by -- M. of A. J. RIVERA -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to establishing kinship guardianship

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The family court act is amended by adding a new section
2 1059-a to read as follows:
3 S 1059-A. KINSHIP GUARDIANSHIP. 1. DEFINITIONS. WHEN USED IN THIS
4 SECTION:
5 A. "KINSHIP FOSTER CHILD" SHALL MEAN A CHILD PLACED WITH A SOCIAL
6 SERVICES OFFICIAL PURSUANT TO SECTION ONE THOUSAND FIFTY-FIVE OF THIS
7 ARTICLE WHO IS PLACED EITHER (I) AS A KINSHIP FOSTER CHILD PURSUANT TO
8 REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR (II) AS A
9 FOSTER CHILD AND WHO HAS BEEN PLACED BY THE SOCIAL SERVICES OFFICIAL OR
10 OTHER AUTHORIZED AGENCY IN THE HOME OF A RELATIVE WITHIN THE THIRD
11 DEGREE;
12 B. "KINSHIP FOSTER PARENT" SHALL MEAN A FOSTER PARENT WHO IS APPROVED
13 OR CERTIFIED PURSUANT TO SECTION THREE HUNDRED SEVENTY-EIGHT OF THE
14 SOCIAL SERVICES LAW AND WHO IS CARING FOR A CHILD WHO IS RELATED WITHIN
15 THE THIRD DEGREE.
16 2. PETITION. A KINSHIP FOSTER PARENT OR A SOCIAL SERVICES OFFICIAL MAY
17 FILE A PETITION WITH THE FAMILY COURT WHICH PLACED THE CHILD PURSUANT TO
18 SECTION ONE THOUSAND FIFTY-FIVE OF THIS ARTICLE TO HAVE THE KINSHIP
19 FOSTER PARENT APPOINTED AS KINSHIP GUARDIAN FOR THE CHILD. THE PETITION
20 SHALL ALLEGE THAT THE CHILD WAS PLACED PURSUANT TO SECTION ONE THOUSAND
21 FIFTY-FIVE OF THIS ARTICLE, THAT MORE THAN EIGHTEEN MONTHS HAVE PASSED
22 SINCE THE DATE OF THE ORDER PURSUANT TO SECTION ONE THOUSAND FIFTY-FIVE
23 OF THIS ARTICLE, THAT THE PARENTS OF THE CHILD ARE PRESENTLY AND FOR THE
24 FORESEEABLE FUTURE UNABLE TO PROVIDE PROPER AND ADEQUATE CARE FOR THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 CHILD, NOTWITHSTANDING THE AUTHORIZED AGENCY'S DILIGENT EFFORTS TO
2 ENCOURAGE AND STRENGTHEN THE PARENTAL RELATIONSHIP, THAT THE PROSPECTIVE
3 KINSHIP GUARDIANS CONSENT TO THE APPOINTMENT AND THAT THE CHILD HAS
4 RESIDED WITH THEM FOR MORE THAN EIGHTEEN MONTHS, AND THAT IT WOULD BE IN
5 THE BEST INTERESTS OF THE CHILD FOR THE PETITION TO BE GRANTED.
6 3. NOTICE. NOTICE OF THE PETITION AND A COPY OF THE PETITION SHALL BE
7 SERVED UPON THE SOCIAL SERVICES OFFICIAL WITH WHOM THE CHILD IS PLACED,
8 THE PARENTS OF THE CHILD, AND THE KINSHIP FOSTER PARENTS OF THE CHILD,
9 EACH OF WHOM SHALL BE PARTIES TO THE PROCEEDING.

10 4. HEARING AND DETERMINATION. IF THE COURT FINDS THAT THE ELEMENTS OF
11 THE PETITION HAVE BEEN PROVEN BY A FAIR PREPONDERANCE OF THE EVIDENCE,
12 OR UPON THE CONSENT OF ALL PARTIES, THE COURT SHALL GRANT THE PETITION.
13 5. ORDERS. AN ORDER APPOINTING A PERSON AS A KINSHIP GUARDIAN SHALL
14 AWARD CUSTODY OF THE CHILD TO THE KINSHIP GUARDIAN. A KINSHIP GUARDIAN
15 SHALL HAVE THE SAME AUTHORITY AS A PARENT TO CONSENT ON BEHALF OF A
16 CHILD, EXCEPT THAT A KINSHIP GUARDIAN SHALL NOT CONSENT TO THE ADOPTION
17 OR SURRENDER OF A CHILD.
18 6. MAINTENANCE SUBSIDY. THE SOCIAL SERVICES OFFICIAL WITH WHOM THE
19 CHILD WAS PLACED PURSUANT TO SECTION ONE THOUSAND FIFTY-FIVE OF THIS
20 ARTICLE SHALL MAKE MONTHLY PAYMENTS TO THE KINSHIP GUARDIAN AS IF THE
21 CHILD HAD BEEN PLACED UNDER SECTIONS FOUR HUNDRED FIFTY-THREE AND FOUR
22 HUNDRED FIFTY-FOUR OF THE SOCIAL SERVICES LAW, AND SUBJECT TO THE PROCE-
23 DURES, LIMITATIONS, AND MINIMUM PAYMENTS OF SUCH SECTIONS.
24 7. RIGHTS OF THE PARENTS. THE APPOINTMENT OF A KINSHIP GUARDIAN SHALL
25 NOT AFFECT OR IMPAIR THE VISITATION RIGHTS OF A PARENT.
26 8. VACATING ORDERS. A PARENT MAY APPLY FOR AN ORDER VACATING THE
27 APPOINTMENT OF THE KINSHIP GUARDIAN. UPON A SHOWING BY THE PARENT THAT
28 HE OR SHE IS ABLE TO PROVIDE PROPER AND ADEQUATE CARE FOR THE CHILD, THE
29 COURT SHALL VACATE THE APPOINTMENT AND AWARD CUSTODY OF THE CHILD TO THE
30 PARENT.
31 S 2. This act shall take effect on the ninetieth day after it shall
32 have become a law.

POLICY CHANGE CATEGORY

YOUTH BUREAU

Sex Offenders

PROPOSAL

Support adoption of S.4577/A.8892 (Flanagan/Eddington), which would add a new §70.11 to the Penal Law requiring that a defendant convicted of a sex crime under Article 130 of the Penal Law against a minor less than 17 years of age shall serve not less than 11 months of any sentence.

JUSTIFICATION

This proposal would insure that first-time sex offenders are assured of a minimum sentence commensurate with their crime.

FISCAL IMPACT

No Fiscal Impact to Suffolk County.

BACKGROUND & STATISTICS

None.

LEGISLATIVE HISTORY

Legislation was recently introduced in both the Senate and Assembly, by Senator Flanagan and Assemblywoman Eddington, respectively. Both bills were referred to the Code Committee.

2003-2004 Regular Sessions

I N S E N A T E

April 14, 2003

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to imprisonment for a sex crime against a minor less than 17 years of age

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The penal law is amended by adding a new section 70.11 to
2 read as follows:

3 S 70.11 SENTENCE OF IMPRISONMENT FOR SEX CRIMES AGAINST A MINOR LESS
4 THAN 17 YEARS OF AGE.

5 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE WHEN A PERSON HAS
6 BEEN CONVICTED OF A CRIME UNDER ARTICLE ONE HUNDRED THIRTY OF THIS CHAP-
7 TER AGAINST A MINOR LESS THAN SEVENTEEN YEARS OF AGE THE COURT SHALL
8 IMPOSE A SENTENCE OF IMPRISONMENT OF NOT LESS THAN ELEVEN MONTHS.

9 S 2. This act shall take effect on the first of November next succeed-
10 ing the date on which it shall have become a law.

SUFFOLK COMMUNITY COLLEGE

SUFFOLK COUNTY COMMUNITY COLLEGE

Full Time Equivalent (FTE) Funding

PROPOSAL

Urge New York State to provide full base State aid support for the County's Full Time Equivalent (FTE) students thereby recognizing increased enrollment.

JUSTIFICATION

Suffolk County Community College's actual FTE enrollment for 2002-2003 was 15,640. This year it is expected to grow to a projected enrollment of 16,109. The college would like to see the Base State Aid per FTE restored to \$2,300.

FISCAL IMPACT

If the FTE Base State Aid is not raised to \$2,300 and instead is reduced to \$2,185 per FTE then the estimated loss would be approximately \$1.85 million. This increase would require about a \$110 increase in full-time tuition and about a \$4 per credit increase for part-time students.

BACKGROUND & STATISTICS

The last time New York State increased its per FTE aid was with the adoption of the County's 2002-2003 budget when the amount was increased from \$2,250 per FTE to \$2,300. Even with that increase, New York State's level of support was only around 28%, well below levels of support from students and Suffolk County.

LEGISLATIVE HISTORY

None.

SUFFOLK COUNTY COMMUNITY COLLEGE

Out of County Tuition Reimbursement

PROPOSAL

Suffolk County supports enabling legislation to restrict out of county tuition payments to those institutions that offer programs that Suffolk does not. The Suffolk County Legislature passed a Memorializing Resolution 92-1997 that requested New York State to restrict out-of-County tuition payments to only those courses that are not available at Suffolk County Community College.

JUSTIFICATION

Suffolk County Community College offers many identical courses at a lower cost. If Suffolk residents took these courses at Suffolk County Community College rather than other New York State community colleges, student revenues and full-time equivalent (FTE) aid for the college would increase while out-of-county tuition payments would decrease.

FISCAL IMPACT

Suffolk County pays an average of \$5.7 million a year for out-of-county tuition payments. It is difficult to quantify how much savings there would be if students could only take courses that were not offered at Suffolk County Community College, but the estimated savings would be significant.

BACKGROUND & STATISTICS

Pursuant to section 6305 of the New York Education Law requires out-of-county chargebacks to other community colleges when Suffolk County residents attend programs at New York State community colleges and the Fashion Institute of Technology (FIT).

LEGISLATIVE HISTORY

The Suffolk County Legislature passed Memorializing Resolution 92-1997 in August, 1997. There has been no state legislation passed to effect the proposed change.

SUFFOLK COUNTY COMMUNITY COLLEGE

STATE AID FOR CAPITAL PROJECTS

PROPOSAL

Urge New York State to work with SUNY to increase the level of support for needed capital projects. There is a significant shortage of classroom space at Suffolk County Community College. The current capital program includes two projects approved by Suffolk County that require support from the State level. These projects include the Science, Technology and General Classroom Building at the Ammerman campus totaling an estimated cost of \$28.55 million.

JUSTIFICATION

The Science, Technology and General Classroom Building at the Ammerman campus will house the bio-technology and Engineering Sciences; Laser and Fiber Optics, Computer Sciences, Biology, Chemistry, general classrooms and faculty offices. The Learning Resource Center at the Grant campus totaling an estimated cost of \$32.4 million. This building will include traditional library functions integrated with state-of-the-art information technology, as well as additional quality classroom space, faculty offices and student and faculty workspace. Additionally, the building will also be used to accommodate the expanding Fine Arts department at the Grant campus.

FISCAL IMPACT

The Science, Technology and General Classroom Building at the Ammerman campus will cost an estimated \$28.55 million. The Learning Resource Center at the Grant campus will cost an estimated \$32.4 million.

BACKGROUND & STATISTICS

Both projects have been included in the "subsequent years" column of the capital program so that State funding can be secured. However, it must be stressed that state funding be obtained and procedures expedited so that significant timeframes needed for completion of these capital projects can be shortened to meet College and student needs in a timely manner.

LEGISLATIVE HISTORY

None.

SUFFOLK COUNTY COMMUNITY COLLEGE

Workforce Development – Full Time Equivalent Funding

PROPOSAL

New York State should work with SUNY the New York State Department of Labor and the New York State Education Department to fully fund community college costs associated with Workforce Development.

JUSTIFICATION

In order to allow community college to sustain their continuing education workforce development training programs, New York State must reinstate the Full Time Equivalent (FTE) reimbursement formula for continuing education that was eliminated a number of years ago. Failure to reinstate this FTE reimbursement will continue to hamper community college's ability to partner with the state on these very important workforce development programs.

New York State continues to rely more heavily on community colleges as providers of Workforce Development Training programs that help transition public assistance recipients and the unemployed to meaningful employment opportunities. No longer limited to simple short-term pre-employment training, today's workforce programs involve complex collaborations between educators, social service providers, the business community and government. Planning, organizing, delivering the training and finding job placements are costly undertakings.

FISCAL IMPACT

Savings to County but difficult to quantify.

BACKGROUND & STATISTICS

At most community colleges, these workforce-training programs are administered through continuing education departments, which according to SUNY regulations, must be self-sustaining operations.

LEGISLATIVE HISTORY

None.